
Appeal Decision

Site visit made on 15 June 2015

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 July 2015

Appeal Ref: APP/R5510/X/14/2228512

8 Merton Avenue, Uxbridge, UB10 9BN.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Rachid Lazraq against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref. 70137/APP/2014/3012, dated 21 August 2014, was refused by notice dated 21 October 2014.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is Conversion of roof space to habitable use to include a rear dormer, 2 front rooflights and conversion of roof from hip to gable end with a new gable end window, porch to front and single storey detached outbuilding to rear for use as a gym.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal property is a two-storey semi-detached house. The Council refused to issue an LDC for the development described above because it considered that the outbuilding would not be development permitted by Class E of Part 1 of the Schedule to the Town and Country (General Permitted Development) Order 1995 (the 1995 GPDO). There was no objection to the other parts and an LDC for these was subsequently issued in November 2014. These other elements have now been built. This appeal therefore relates solely to the outbuilding.
3. The 1995 GPDO has now been replaced by the Town and Country (General Permitted Development) Order 2015 (the GPDO). However, so far as it relates to the proposed development there is no material difference.
4. Class E grants planning permission for the provision within the curtilage of a dwellinghouse of a building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to ground coverage and height limitations. The Council refused to issue an LDC because it was not satisfied, due to the proposed building's size and scale, that the building is required for a purpose incidental to the enjoyment of the dwellinghouse as such. The height limitations of Class E would not be exceeded. In the course of the appeal a

question arose about the ground coverage following the erection of a 6m rear extension which was not included in the scheme when it was first considered. However, calculations provided at my request by the appellant indicate that the coverage of the curtilage of the dwellinghouse would not exceed the 50% Class E limit with the erection of the proposed outbuilding. The main issue in this case is whether the Council's decision was well-founded.

5. The case of *Emin v SSE and Mid Sussex DC* [1989] deals with the questions of building size and incidental uses. The Court held in that case that the relative sizes of the proposed building and the dwellinghouse can be an important consideration, but it is not by itself conclusive. It is necessary to consider whether the use of the proposed building, in the context of the planning unit, is intended and will remain ancillary or subordinate to the main use of the property as a dwelling house. It is for the appellant to demonstrate that the proposed building is reasonably required for purposes incidental to the enjoyment of the dwellinghouse as a dwellinghouse.
6. In this case the plans accompanying the application indicate that the proposed building would be used as a gym. In the course of the appeal the appellant has also indicated that, while he cannot be precise on the long term use, it would primarily be used for the household goods currently stored in the loft space while the loft space is converted to living accommodation. On my site visit I saw that the permitted works were complete, or substantially so, and an existing single garage, which is in a poor state of repair and would be replaced by the proposed outbuilding, and adjoining space were being used for domestic storage, presumably related, in part at least, to the conversion of the loft space.
7. Use as a gym or for domestic storage are uses that can be regarded as being incidental, and no doubt the building, once erected, could be put to other uses which might be incidental to the enjoyment of the dwellinghouse as such. However, the outbuilding would be a considerable size, some 6.9m by 6.6m, a footprint of 45.54m², which is close to the footprint of the original dwelling. It is for an appellant to show that a building of a proposed size is reasonably required, and that it would be designed with incidental uses in mind, having regard to all the circumstances. The uses put forward in this case as those for which the building is required would not normally necessitate a building of this considerable size. It is not clear to me therefore why such a large building is required. I conclude, on balance, that the appellant has not demonstrated that the proposed building is required for purposes incidental to the enjoyment of the dwellinghouse as such. It would not therefore be permitted development under Class E.
8. I find that the Council's refusal to grant an LDC in respect of the erection of a detached outbuilding was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in s.195(3) of the 1990 Act as amended.

Paul Dignan

INSPECTOR