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## Appeal Decision

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

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**Appeal Ref: APP/R5510/X/24/3353221**

**45 Kingsway, Hayes UB3 2TT**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Jaideep Singh against the decision of the Council of the London Borough of Hillingdon.
  - The application ref 78730/APP/2024/1036, dated 21 April 2024, was refused by notice dated 12 June 2024.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
  - The development for which an LDC is sought is gym/playroom and storage area in rear garden.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. An application for an award of costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

### Reasons

4. 45 Kingsway is a two-storey semi-detached dwelling with a long rear garden. Under Class E of Part 1 of Schedule 2 of the GPDO provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. The Council does not dispute that the proposed outbuilding would be built in the curtilage of the dwellinghouse and that it would comply with the limitations of paragraph E.1. They claim, however, that the outbuilding, would be too large to be considered incidental or ancillary to the existing dwelling.
5. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose.

6. The proposed building would be at the rear of the rear garden and would be, externally, about 48 square metres. The Council has commented that the dwellinghouse has a lesser footprint of about 42 square metres, but it has two stories and has a floor area of about 84 square metres. The size of the proposed outbuilding is not a reason to withhold an LDC. In this regard it is worth noting that residents of modest dwellings, rather than residents of large dwellings, are those that may need to supplement their dwellinghouse to fulfil their recreational wishes and space needs.

7. The proposed use of the outbuilding is confused. The application form describes the use as gym/playroom and storage whereas a plan drawing indicates that the use would be gym and bathroom. Though gym and playroom may be regarded to be ancillary uses there must be a genuine reason for space to be created for these uses to be incidental to the enjoyment of the dwellinghouse. The genuine reason must relate to those who live in the dwellinghouse. There is no information, other than the name of the Appellant, about who lives in the dwellinghouse.

8. If the outbuilding would be used partly as a playroom is this to provide playspace for young children who live in the dwellinghouse ? Is there a specific need for a gym to fulfil the physical exercise needs of residents ? What needs to be stored in the outbuilding that can't be stored in the dwellinghouse ? These are questions that need answers to be able to judge whether the use or uses of the outbuilding would be incidental to the enjoyment of the dwellinghouse. The need for bathroom facilities would arise only after use of gym equipment and it has not been explained why bathroom facilities in the dwellinghouse could not fulfil this requirement.

9. There is insufficient information to be able to judge whether the proposed outbuilding would be genuinely and reasonably required to accommodate uses that would be incidental to the enjoyment of the dwellinghouse.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for gym/playroom and storage area in rear garden at 45 Kingsway, Hayes was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

***John Braithwaite***

Inspector