

From: Atrium Planning Consultants atriumplanning@icloud.com 
Subject: Re: P2023/0095 - LDC
Date: 20 February 2023 at 09:46
To: Rhodri Griffiths r.griffiths2@npt.gov.uk
Cc: h.bowen@npt.gov.uk



Hi Rhodri

Further to our conversations last week and confirmation you are taking advice from the Councils Legal Department, I would like to make a few comments.

Given that the submission obviously meets all the physical requirements of Permitted Development, I have made the presumption that your concerns lie with the incidental nature of the development.

With regard to the incidental nature of the application, the plans show an outbuilding which would contain a gym with showering and sauna facilities, garden store, home office, bike store and man-cave.

My client contends that the proposed uses for the building would be incidental to the enjoyment of the dwellinghouse in land use planning terms. Again, I am making presumptions that you and your colleagues have concluded that the proposed individual uses are capable of being incidental to the enjoyment of the dwellinghouse, but when taken together the scale of the building would be of concern? The reason for the Legal consultation is that the outbuilding would not be commensurate to the donor property in terms of size and scale?

With that being said, there is no statutory definition of 'incidental' in the GPDO. Case Law provides guidance on how it should be interpreted by decision-makers. In the *Emin case (Emin v SSE & Mid Sussex DC [1989])* it was held that the size of an outbuilding is not to be 'required' for some incidental purpose in relation to the dwellinghouse. When dealing with cases such as my clients submission it is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is proposed use or activity. In *Emin*, it was held that it is wrong to conclude that an outbuilding could not be said to be incidental as such because it would provide more accommodation for secondary activities than the dwellinghouse provides for primary purposes.

In applications such as these, the determination of whether or not a building is incidental is very much a matter of fact and degree based on specific circumstances. Furthermore, there are a number of factors relating to whether an outbuilding is incidental. The actual use of the building is determinative. The relevance of size lies in the indication it may provide of the scale of proposed activities and whether they would be subordinate to the main use of the dwellinghouse. There is nothing in the *Emin* judgment that concludes that whether a building is incidental is determined by the size of the proposed building and the size of the dwellinghouse itself. **Had Class E sought to impose a limit on size of an outbuilding or its relative size in relation to its host dwellinghouse, it could have done so.**

In this instance, my client presents that the space proposed in the building is genuinely and reasonably required by him and necessary to accommodate the intended uses. Case Law dictates that in order for a building to be considered permitted development, all of its uses must be incidental to the enjoyment of the dwellinghouse. It would accommodate hobby related space (Man-cave and bike storage), recreational uses such as gym and sauna, domestic related storage for the garden tools and machinery and office is a must as Rhodri will attest to. As it is my understanding that the Planning Department works from home 4 days a week.

Therefore in conclusion, although I do not dispute that the submission may be considered 'large' in terms of footprint, there is certainly subordination in land use terms. Each of the uses including, the homeworking office and man-cave, would be functionally linked to the main use of the dwellinghouse.

I would appreciate if you would forward on my comments to your colleagues in Legal before they return their observations to you.

On a side note, there is an abundance of Case Law and Appeal decisions relating to incidental use. A significant number of these decision letters and cost applications relate to successful PD Outbuilding developments considerably larger than that applied for by my client should the application be deemed unacceptable following the completion of the Planning Application process.

Kind regards

Matt



BSc (Hons) City and Regional Planning
MSc Regeneration

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On 17 Feb 2023, at 14:39, Rhodri Griffiths <r.griffiths2@npt.gov.uk> wrote:

Hi Matt,

No problem – the application will be registered shortly.

Thank you for the offer of supporting information, but I do not require this.

Kind regards,

Rhodri Griffiths

Swyddog Cynllunio - Rheoli Datblygu / Planning Officer – Development Management
Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot / Neath Port Talbot County Borough Council

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From: Atrium Planning Consultants <atriumplanning@icloud.com>
Sent: 17 February 2023 14:37
To: Rhodri Griffiths <r.griffiths2@npt.gov.uk>
Subject: Re: P2023/0095 - LDC

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Hi Rhodri

Thank you for your email.

Please register the application as a matter of urgency.

We will take the application to appeal if the council are minded to refuse a Permitted Development Outbuilding, therefore time is of the essence.

We had a similar outbuilding passed in Swansea, happy to give you the reference if you would like to view that in terms of a case study?

Thanks again

Matt

07505 210 952
atriumplanning@icloud.com
www.atriumplanning.co.uk

On 17 Feb 2023, at 14:31, Rhodri Griffiths <r.griffiths2@npt.gov.uk> wrote:

Hi Matt,

Further update following my email below.

I have requested legal advice (on 13.02.23) concerning this application. I am seeking clarification as to whether the proposed development can be considered as incidental dwellinghouse.

Please can you let me know if you would like me to register / validate this application and cash your fee, or await the Local Planning Authority's initial informal view prior to fee, you will not be able to receive a refund.

I hope to receive legal advice by the middle / end of next week.

Kind regards,

Rhodri Griffiths

Swyddog Cynllunio - Rheoli Datblygu / Planning Officer – Development Management
Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot / Neath Port Talbot County Borough Council

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From: Rhodri Griffiths
Sent: 13 February 2023 16:47
To: Atrium Planning Consultants <atriumplanning@icloud.com>
Subject: P2023/0095 - LDC

Hi,

-Tanyralit
Graig Road
Gwaun Cae Gurwen
SA18 1EH

- Construction of domestic outbuilding for use ancillary to the enjoyment of the dwelling known as Tanyralit.

I'll provide you with an update on this application shortly, anything else in the meantime, please drop me an email.

Kind regards,

Rhodri Griffiths

Swyddog Cynllunio - Rheoli Datblygu / Planning Officer – Development Management
Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot / Neath Port Talbot County Borough Council

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