

# Legal Viewpoint: When planning permission could be required for working from home

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With many of us working from home during the Covid-19 pandemic, a recent High Court ruling provides a stark reminder of why it's important to consider whether planning permission might be needed for home-working.

The case concerned a south-east London personal fitness trainer's use of part of an outbuilding in his garden as a gym for six days a week. He applied for a certificate of lawful existing use or development (CLEUD) to confirm that the outbuilding's use was residential, and therefore lawful, based on it being incidental to the dwellinghouse. The council refused the application, as did an inspector on appeal (DCS Number 200-009-848).

The claimant's High Court challenge to the inspector's decision failed on all three grounds. Firstly, one of the reasons for refusal was that the gym use caused visual disturbance because neighbours could see clients using the narrow access and garden, although the inspector acknowledged that the training sessions themselves didn't cause a noise disturbance.

The claimant argued that visual disturbance was an immaterial consideration because it doesn't feature in the national Planning Practice Guidance (PPG) list of issues to be taken into account when deciding whether home-working constitutes a material change of use. Mr Justice Ouseley disagreed,

noting that the considerations listed in the PPG are not mandatory. It would be irrational, he observed, if the inspector could consider noise disturbance - which is listed - but not visual disturbance in her decision-making.

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