



Appeal Decision

Site visit made on 8 April 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2025

Appeal Ref: APP/Y3615/X/23/3334506

Hedgehog, Suffield Lane, Puttenham, Surrey GU3 1BQ

- 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.
 - The appeal is made by Mr and Mrs Gordon Ede against the decision of Guildford Borough Council.
 - The application ref 23/P/00268, dated 8 February 2023, was refused by notice dated 27 October 2023.
 - 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 the erection of two Class E buildings, one is required for a home office for the applicant whose work requires a home office, the other is required as a gym and sauna for the use and enjoyment of the family.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Reasons

2. Section 192(2) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”) provides that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application. The onus is on the appellants to prove their case to a standard of the balance of probabilities.
3. The appellants contend that the proposed buildings would benefit from the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”), specifically that outlined in Schedule 2, Part 1, Class E (“Class E”).
4. Class E describes buildings incidental to the enjoyment of the dwellinghouse and the conditions and limitations that must be complied with. The application was only refused on the basis that the buildings would be forward of a wall forming the principal elevation of the original dwellinghouse. The outbuildings would be sited towards the southern site boundary so this appeal, therefore, turns on whether the north elevation facing Murtmead Lane, or the south elevation facing the dwelling’s private garden, is the principal elevation.
5. The evidence indicates that Hedgehog was probably built as a gardener’s cottage for Murtmoor, which lies to the south and the gardens of which extend up to Hedgehog’s current boundary. The Council suggest that service dwellings often

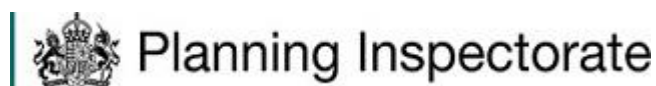
faced their host dwellings to provide a more pleasant aesthetic, but no substantive evidence is provided to support that claim, either as a general concept, or in this particular case.

6. The grounds of Murtmoor slope down, increasingly steeply, towards Hedgehog, reducing any visual association with the house at Murtmoor and its wider gardens. Instead, Hedgehog sits at an approximately 90 degree bend where Murtmead Lane meets the private drive serving Murtmoor and Hedgehog. Today, the private drive to the south is loosely surfaced and Murtmead Lane is a narrow, unsurfaced footpath leading east away from Hedgehog. Thus, vehicular access is only available from the south and leads to a, now formalised, vehicular access and parking space to the west of Hedgehog. Given the remote location, this western side is, therefore, likely to be where the vast majority of visitors would arrive.
7. A porch has been erected outside a door on the north side, which is otherwise a simple elevation with few windows. From a gate in the post and rail fence boundary, it is necessary to walk around a telegraph pole to reach the front door. However, given the likely age of the pole and boundary treatment relative to the house itself, this is not indicative of whether the door is in the principal elevation of the original dwellinghouse or not. Despite the absence of a door on 'existing' plans that accompanied a 2017 application and lack of clarity in photographs of a previous porch, the appearance of the door frame from the porch into the house indicates that it is of some significant age, certainly pre-dating the current porch.
8. The door in the north elevation, leading to the kitchen, provides a somewhat awkward entrance into the house from an internal circulation perspective. That is likely, at least in part, due to the numerous re-configurations and extensions that have taken place to this significantly modified dwelling. There is also an entrance door from the garden in the south elevation. This leads to a space that resembles an entrance hall, with limited furniture and 3 doors leading off it. It was described as such in the most recent sales particulars. However, given the presence of a fireplace, I find it more likely than not that this was once a bedroom and that the door in the south elevation would not have provided the main entrance to the house, if one existed there at all.
9. Extensions to the house mean that the south elevation is now fairly long, with numerous windows. Unlike an extension on the north side, its materials and fenestration match that of the original part of the house. The door is positioned roughly symmetrically in the original part of the house and all of this combines to make it the most interesting and visually cohesive elevation. However, it is not uncommon for numerous windows to be provided overlooking private rear gardens and, as the current appearance of the house is clearly a product of many alterations, I see no reason that the greater number of windows or the cohesive appearance of the south elevation renders it the principal one.
10. As described above, most visitors would arrive at the west side of the house. Here, vehicular access has been formalised, but it has the appearance of a service area. There are high gates behind the parking area leading to what is, clearly, a private garden space. No entrance door is visible. In contrast to the door in the north, which presents directly to Murtmead Lane, the south entrance is relatively uninviting for visitors.

11. It appears that the arrangement and appearance of the west side of the plot has significantly changed since the property was last sold. However, the photographs that have been provided indicate that a small entrance in a hedgerow led from the west boundary to the garden area and southern door. That would have been no more inviting, or indicative of a principal entrance than the current scenario. It is also more likely to mimic the original configuration of the site than the current one that appears to have been redesigned for cars.
12. Despite its historic association with the gardens of Murtmoor, Hedgehog was clearly positioned close to Murtmead Lane. As such, the lane would have given at least one option for access to the house. Given the siting close to the lane and the presence of a door in that elevation, together with my analysis above, and a lack of substantive contrary evidence that might make the appellants' historical analysis of the site less than probable, I find that it is more likely than not that the north elevation is, and originally was, the principal elevation.
13. Therefore, the proposed outbuildings would not be sited forward of a wall forming the principal elevation of the original dwellinghouse. There is no suggestion that the other conditions and limitations of Class E are not met and, accordingly, the proposal would benefit from the planning permission granted by the GPDO.
14. I, therefore, conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the erection of two buildings, one for a home office for the applicant's work, and one for a gym and sauna for the use and enjoyment of the family is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act.

M Bale

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 8 February 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development would fall within the conditions and limitations described in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). It would, therefore, have benefitted from the planning permission granted by the GPDO.

Signed

M Bale

INSPECTOR

Date: 22 April 2025

Reference: APP/Y3615/X/23/3334506

First Schedule

The erection of two Class E buildings, one is required for a home office for the applicant whose work requires a home office, the other is required as a gym and sauna for the use and enjoyment of the family, as shown on the plans submitted with the application to the Council ref 0821-2 and 0821-5.

Second Schedule

Land at Hedgehog, Suffield Lane, Puttenham, Surrey GU3 1BQ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 22 April 2025

by M Bale

Land at: Hedgehog, Suffield Lane, Puttenham, Surrey GU3 1BQ

Reference: APP/Y3615/X/23/3334506

Scale: Not to Scale

