



Appeal Decision

Site visit made on 30 August 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Appeal Ref: APP/W1525/C/23/3321256

Land at 81 Rutland Road Chelmsford Essex CM1 4BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “1990 Act”).
 - The appeal is made by Mr Tony Jackson against an enforcement notice issued by the Chelmsford City Council.
 - The enforcement notice was issued on 31 March 2023.
 - The breach of planning control as alleged is the construction of a building.
 - The requirements of the notice are to: 1) demolish the building and its foundations, 2) remove from the land all debris and other waste material resulting from the works carried out at step 1), and 3) restore the land by seeding the area affected to its pre-construction condition.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Reasons

2. The onus is on the appellant to show the matters alleged do not constitute a breach of planning controls. Essentially, the argument is a simple one, namely, the alleged development is permitted by article 3, schedule 2, part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 as amended. It is evident from the reasons for issuing the notice and associated bundle of evidence that the building in question meets all the limitations and conditions set out in paragraph E.1 of Class E. I have no reason to question this. That is not the end of the matter, because the appellant needs to show the appeal building was constructed for purposes incidental to the enjoyment of the dwellinghouse. The Council argues that it was built as a self-contained residential unit.
3. There is considerable case law on the interpretation and application of the words *required for a purpose incidental to the enjoyment of the dwellinghouse as such* [my emphasis] in the context of Class E to the GPDO. Beginning with the often-quoted case known as *Emin*¹, the line of judgments, and the findings therein, serve to illustrate that with each case it is a matter of fact and degree based on the circumstances and evidence presented. Against that background, the appellant has an uphill struggle irrespective of the Council’s concerns about the size of the building.

¹ *Emin v SSE & Mid Sussex DC* 1989.00 EGCS 16.

4. The overwhelming evidence, which includes photographic images of the outbuilding's internal and external layout during the period leading up to the issue of the notice, shows the building included facilities for day-to-day existence. It had a fully functioning kitchen, bathroom, bedroom and living room. To me, it seems that the building was constructed as a dwelling-house.
5. The appellant's own evidence is that the building was used for short stays while returning from abroad, but the evidence presented also suggests that it was used as someone's home during the period leading up to the issue of the notice. Be that as it may, given the available facilities for independent living, the building fails to meet the basic criteria for Class E. This is because it is not required for a purpose incidental to the enjoyment of the dwellinghouse as such.
6. Alterations have been made to the building's interior and externally to demonstrate that the building is now used for storage or use in connection with a hobby repairing vintage vehicles. The appellant's bundle includes evidence of the building's current use, and I observed that the timber fence panels subdividing the rear garden, which formed private amenity space for the subject building's occupier, has been removed. However, the concrete posts remain in situ as do some kitchen facilities and a bathroom. In any event, the evidence shows that the outbuilding was not built for incidental or ancillary purposes. To my mind, it was constructed as a self-contained residential unit forming a separate planning unit, for use independently of the main house. Subsequent use for purposes that meet the requirements of Class E are not permissible, as the building was not erected under these provisions in the first place.
7. For all the above reasons, ground (c) fails because the alleged matters constitute a breach of planning controls. I conclude that the appeal should fail.

A U Ghafoor

INSPECTOR