



Appeal Decision

Site visit made on 6 October 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2025

Appeal Ref: APP/Q1825/X/25/3366312

Lakeside Cottage, Old Yarr, Blaze Lane, Astwood Bank, Redditch B96 6QA

- 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 Mrs Julie Millard against the decision of Redditch Borough Council.
 - The application ref 24/00671/CPL, dated 1 July 2024, was refused by notice dated 28 March 2025.
 - 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 outbuilding.
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Decision

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

Preliminary Matter

2. The appellant confirms the building would be approximately 9.9 metres wide by 6.7 metres deep. However, the Council confirm the scaled measurements taken from the drawings submitted with the LDC application indicate the building would be 10.5 metres wide and 7.2 metres deep. The appeal has been determined on the basis of the drawings submitted with the LDC application and therefore I have taken the measurements of the proposed building to be those referred to by the Council as they specifically refer to measurements taken from the drawings. I note the appellant has not disputed this.

Main Issue

3. The main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

4. An application under section 192(1)(b) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
5. Class E, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO) permits 'The provision within the curtilage of the dwellinghouse of—(a) any building...required for a purpose incidental to the enjoyment of the dwellinghouse as such...'. Under paragraph E.1(e)(ii) 'Development is not permitted if the height of the building...would exceed

2.5 metres in the case of a building...within 2 metres of the boundary of the curtilage of the dwellinghouse.'

6. The crux of the matter is whether the building is 'required for a purpose incidental to the enjoyment of the dwellinghouse', and, if it is, would it be 'within 2 metres of the boundary of the curtilage of the dwellinghouse.'

Required for a purpose incidental to the enjoyment of the dwellinghouse

7. Under paragraph E.(a), the word "required" should be interpreted as genuinely and reasonably required or necessary in order to accommodate the proposed use or activity. The functional relationship of the building with the primary use should be one that is normally found and not based on the personal choice of the user. Whether a building is required for an incidental purpose will depend on a fact and degree assessment.
8. *Emin v SSE & Mid Sussex DC* [1989] JPL 909 established that regard should be had not only to the use to which the Class E building would be put, but also to the nature and scale of that use in the context of whether it was a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwellinghouse might be part of that assessment but is not by itself conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and answer the question as to whether the proposed building is genuinely and reasonably required in order to accommodate the proposed use or activity and thus achieve that purpose. The use of the building should be subordinate to the use of the house as a dwellinghouse.
9. It is proposed that the building would be used for the storage of cars, bikes, garden equipment and furniture, as well as other domestic paraphernalia. The Council rely on The Worcestershire Streetscape Design Guide July 2022, which states that garages can provide bike storage where they have a minimum internal dimension of 6 metres by 3 metres. Each of the three bays would exceed this. Taking the Council's minimum depth measurement of 6 metres for the storage of a car and bike, the remaining depth of the building would be 1.2 metres. However, the proposed use of the building is not solely for the storage of cars and bikes. It would also be used for garden equipment and furniture and other domestic paraphernalia, which could reasonably be considered to take up more room than bikes.
10. I note the garden of the appeal property is largely hard landscaped. Nevertheless, there are raised planters which would likely require garden tools to maintain them. I also note the Council's assertion that the existing open-sided pavilion could be used for the storage of garden furniture. However, due to its open-sided design, the pavilion would be largely open to the elements. Therefore, it's not unreasonable to consider that the proposed building would be more suitable for storing such furniture. Considering the Council's minimum garage standards for the storage of cars and bikes, even if the 1.2 metre remaining space was not entirely taken up with the storage of garden tools and furniture and other domestic paraphernalia, I do not consider that this would mean the building would be excessively large for its intended purpose. There is no requirement that the building must be the absolute minimum size required.

11. I find therefore, based on the evidence before me, on the balance of probabilities, the building would be genuinely and reasonably required in order to accommodate the proposed use and as such would be required for a purpose incidental to the enjoyment of the dwellinghouse.

Within 2 metres of the boundary of the curtilage of the dwellinghouse

12. The test of whether land is curtilage is for one corporeal hereditament to fall within the curtilage of another, the former must be so intimately associated with the latter as to lead to the conclusion that the former in truth forms part and parcel of the latter. It need not form a single enclosure. The question of what constitutes the curtilage of a property is a question of fact and degree
13. In their consideration of the previous appeals relating to the wider site¹, the Inspector concluded that the curtilage of the appeal property 'is relatively small and is restricted to the walled garden to its rear and space to the front where vehicles are currently kept.' There is no dispute that the Inspector's decision is a significant material consideration, nor do the Council dispute the Inspector's findings on the extent of the curtilage.
14. The question is whether the Inspector's reference to 'space to the front where vehicles are currently kept' includes the space to the front of the proposed building or whether it is only part of the space to the front of the walled garden.
15. The space to the front of the garden wall forms part of an extensive, gravelled driveway. Three properties, including the appeal property, Old Yarr and The Bowes, have direct access off the gravelled area. The appellant argues that the access for the other two properties is to the rear of the site via a separate access off Blaze Lane. Nevertheless, it is reasonable to conclude that the access to the appeal property is used, at least on occasion, to access these two neighbouring properties.
16. The gravelled driveway has no area demarcated for parking for any of the three properties. Given the expanse of hardstanding, it is reasonable to conclude that occupants/visitors would park in front of the respective property they live in/are visiting. I noted at the time of my site visit there were cars parked in the space to the front of the walled garden, but also in front of Old Yarr and The Bowes.
17. I have had regard to the Council's evidence that there was a row of cars parked in front of the walled garden at the time of the Officer's site visit, within which they were told to park. However, there is no evidence that these cars were related to the occupants of Old Yarr and The Bowes nor that they were not associated with the appeal property.
18. It is not for me to determine what the full extent of the curtilage to the appeal property is, only whether the proposed development would be within 2 metres of its boundary. Notwithstanding that the wider access and gravelled area is shared with the neighbouring properties on occasion, on the evidence before me, and on the balance of probabilities, I find that the area to the front of the walled garden is so intimately associated with the appeal dwelling that it forms part and parcel of it. It therefore forms part of the curtilage of the dwelling. As a consequence, the

¹ Appeal Decisions APP/Q1825/C/23/3335990, APP/Q1825/W/23/3334159, APP/Q1825/W/23/3334186 and APP/Q1825/W/23/3334206

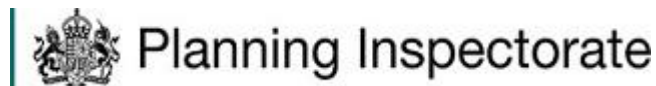
proposed building would not be within 2 metres of the boundary of the curtilage of the dwelling.

Conclusion

19. As the proposed building would be required for a purpose incidental to the enjoyment of the dwellinghouse and would not be within 2 metres of the boundary of the curtilage of the dwellinghouse, on the balance of probabilities, the development would satisfy the limitations and conditions of Class E of the GPDO, and therefore would be permitted development.
20. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

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 1 July 2024 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development shown on drawings 2458-1 and 2458-2 would have been development permitted by Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) and would therefore have been granted planning permission by Article 3(1) of the GPDO.

A Walker

Inspector

Date: 30 October 2025

Reference: APP/Q1825/X/25/3366312

First Schedule

The erection of outbuilding

Second Schedule

Lakeside Cottage, Old Yarr, Blaze Lane, Astwood Bank, Redditch B96 6QA

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 this decision dated: 30 October 2025

by A Walker

Land at: Lakeside Cottage, Old Yarr, Blaze Lane, Astwood Bank, Redditch B96 6QA

Reference: APP/Q1825/X/25/3366312

Scale: Not to Scale

