



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2025

Appeal Ref: APP/T0355/X/24/3345939

80 Aldebury Road, Maidenhead SL6 7HE

- 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 Mr Yasar Ayub against the decision of Royal Borough of Windsor and Maidenhead.
 - The application ref 23/03142, dated 19 December 2023, was refused by notice dated 5 January 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is construction of outbuilding.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 80 Aldebury Road is a two-storey semi-detached dwelling in a large plot. At the side of the dwelling is an attached garage. The dwelling is occupied by the Appellant and his wife and they have, in total, seven children who are all married, twenty-two grandchildren and six great grandchildren. Nine adults and a teenager live permanently in the dwelling. The remainder of the extended family live within 100 metres of the dwelling and visit on a regular basis.
4. Under Class E of Part 1 of Schedule 2 of the GPDO provision within the curtilage of a dwelling of any building required for a purpose incidental to the enjoyment of the dwelling is permitted development, subject to limitations set out in paragraph E.1. The outbuilding would meet the limitations in paragraph E.1. The Council claims, however, that the outbuilding would not be for purposes incidental to the enjoyment of the dwelling because of its size.
5. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental

question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve its intended purpose.

6. The proposed outbuilding would have a footprint of about 150 square metres and would be larger in plan area than the dwelling, but not larger than the footprint of the dwelling and the attached garage, which would be demolished. The Council calculates that "...the proposed outbuilding would add an additional 27% of floorspace covered by the dwelling...". They consider this to be "...a considerable increase...". It would constitute in fact, as a matter of planning judgement, a modest increase to the overall volume and scale of built development on the plot.

7. About a quarter of the outbuilding would be a double garage, to replace the demolished garage. About half of the outbuilding would be a swimming pool and the remaining quarter would be an art gallery and ancillary accommodation. As it would replace a current garage the proposed garage must be regarded to be reasonably required. With such a large family, including great grandchildren, it is not surprising that the Appellant is seeking to provide an on-site activity that would likely be well used. The swimming pool would be modest in size for such a large family.

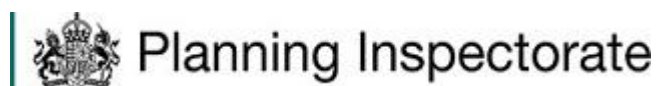
8. The art gallery would be about 19 square metres and there is no reason to doubt that the Appellant is an art lover who wishes to have a designated space to display art to his family and friends. Even if it were not to be used for this purpose it is certain that it would be put to good use for possibly creative activities by the family. It is likely that the extra space would be welcome to relieve pressure on space within the dwelling. The extent of built development, if the proposed development were to be carried out, would be commensurate in size to the plot.

9. The proposed outbuilding would be commensurate in size to the dwellinghouse and to the plot and would be necessary to accommodate the proposed uses. There is no reason to doubt that it is genuinely and reasonably required. Furthermore, it is for purposes incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for construction of outbuilding at 80 Aldebury Road, Maidenhead was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 19 December 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 19 November 2025

Reference: APP/T0355/X/24/3345939

First Schedule

Construction of outbuilding

Second Schedule

Land at 80 Aldebury Road, Maidenhead SL6 7HE

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 19 November 2025

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Land at 80 Alderbury Road, Maidenhead SL6 7HE

Reference: APP/T0355/X/24/3345939

Scale: Not to Scale

