



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal Ref: APP/N1920/X/24/3354955

30 Park View, Potters Bar EN6 5PY

- 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 Yu Guang Zheng against the decision of Hertsmere Borough Council.
- The application ref 24/1201/CLP, dated 5 September 2024, was refused by notice dated 9 October 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 rear outbuilding with alterations to existing structure.

Decision

1. The appeal is dismissed.

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. 30 Park View is a semi-detached two-storey dwelling which has been extended by the construction of a side and rear extension. Attached to the rear extension is the 'rear outbuilding' that is the subject of the appeal. It is about 2.8 metres wide and extends out from the extension by about 7 metres. Class A of Part 1 of Schedule 2 of the GPDO states that the enlargement of a dwellinghouse is permitted development subject to limitations and conditions. For a variety of reasons the outbuilding does not comply with these limitations and conditions and is not therefore development permitted under Class A of Part 1 of Schedule 2 of the GPDO.
4. The Appellant is seeking to alter the outbuilding so that it is development permitted under Class E of Part 1 of Schedule 2 of the GPDO. Class E states that the provision of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. Class E buildings must be detached and the Appellant proposes to detach the outbuilding by erecting an external wall about 0.3 metres away from the extension to the dwelling. The roof of the outbuilding would be detached but the side wall, to an access, would be continuous with the side wall of the extended dwelling.
5. Article 3(5)(a) of the GPDO states that the permission granted by Schedule 2 does not apply if, in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. The

Appellant is seeking permission granted in connection with an existing building; the permission is that granted under permitted development rights and the existing building is the outbuilding. The building operations carried out to create the outbuilding do not benefit from planning permission and the outbuilding is not permitted development. The building operations carried out to create the outbuilding were therefore unlawful.

6. The consequence of the outbuilding being unlawful is that the permitted development rights afforded by the GPDO, under the provisions of Article 3(5)(a), do not apply. The outbuilding is unlawful and it cannot be altered to be permitted development under Class E of Part 1 of Schedule 2 of the GPDO.

7. The ground is level around the building but soil has been excavated so that the floor level of the outbuilding is 0.5 metres below ground level. About 8 cubic metres of soil has been removed for the construction of the outbuilding at a lower level. The removal of such a quantity of soil is an engineering operation in its own right and the operation is not permitted development and does not benefit from planning permission. For this reason also the outbuilding as it has been constructed is unlawful.

8. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for rear outbuilding with alterations to existing structure at 30 Park View, Potters Bar was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector