



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 04 February 2026

Appeal Ref: APP/W1525/X/24/3355957

Elm Tree House, Elm Lane, Roxwell, Chelmsford CM1 4NJ

- 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 J Lewis against the decision of Chelmsford City Council.
- The application ref 24/01174/CLOPUD, dated 14 August 2024, was refused by notice dated 10 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 outbuilding and hardstanding.

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, mostly, 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.

3. The Council granted an LDC for the proposed hardstanding so the appeal relates only to the proposed outbuilding.

Reasons

4. Elm Tree House is a large dwelling in a large residential plot. Under Class E of Part 1 of Schedule 2 of the GPDO provision within the curtilage of a dwellinghouse 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. The Council does not dispute that the proposed outbuilding would be built in the curtilage of the dwellinghouse and that it would comply with the limitations of paragraph E.1. They claim, however, that the outbuilding, would not be for a purpose incidental to the enjoyment of the dwellinghouse.

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 the intended purpose.

6. The outbuilding would contain, principally, a three car garage, a tractor store, an office and a gym. The property benefits from extant planning permission for a four bay cart lodge, granted in 2007, and hardstanding also for the parking of cars. Covered parking for vehicles is an incidental use and the extent of such a use is a matter of personal choice, particularly on a substantial property. The extent of hardstanding is not relevant because the Appellant is entitled to make adequate provision for covered parking for all of his vehicles, and evidence indicates that the permitted cart lodge, if it were to be built, would not accommodate all of his vehicles.

7. The existing tractor store on the property is, on the Appellant's evidence, in a dilapidated state. It is understandable that the Appellant is seeking to replace the existing store within the proposed outbuilding. It is unusual for a Council to suggest that a room, the proposed gym, would be inadequate in size. A gym is an incidental use and the Appellant would have to decide which items of gym equipment to accommodate. An office is also an incidental use and whilst three toilets might seem to be excessive each would serve a different element of the proposed outbuilding. All of the uses of the outbuilding are incidental and reasonably required.

8. The proposed outbuilding is genuinely and reasonably required to accommodate the proposed uses and would be no larger than necessary. The proposed development is permitted by Class E of Part 1 of Schedule 2 of the GPDO.

9. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for outbuilding at Elm Tree House, Elm Lane, Roxwell, Chelmsford 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 14 August 2024 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: 04 February 2026

Reference: APP/W1525/X/24/3355957

First Schedule

Outbuilding

Second Schedule

Land at Elm Tree House, Elm Lane, Roxwell, Chelmsford CM1 4NJ

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: 04 February 2026

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Scale: Not to Scale

