



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/Z1510/X/25/3358293

Lones Garden, Lones Hole Lane, Shalford, Braintree CM7 5JB

- 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 Peter Mitchell against the decision of Braintree District Council.
- The application ref 24/00161/PLD, dated 25 January 2024, was refused by notice dated 11 March 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 single-storey side and rear extensions.

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. Lones Garden is a detached dwelling that has previously been extended. The proposed side and rear extensions fall to be considered under Class A of Part 1 of Schedule 2 of the GPDO. Class A states that the enlargement of a dwellinghouse is permitted development subject to limitations and conditions. The Council accepts that the proposed side extension is development permitted under Class A. However, the Council maintains that the proposed rear extension does not comply with limitations of Class A and would not therefore be permitted development.
4. The Council has referred, principally, to limitation (ja) of Class A, which is “any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j)”. In this regard the Council has referred to sub-paragraphs (h)(i), (j)(i), (j)(ii) and (j)(iii). But the dispute between the parties regarding the proposed rear extension is the bracketed part of limitation (ja), and in particular the phrase “...to which it will be joined”.
5. The dwelling has, at the rear, a two-storey extension. The proposed flat roofed single storey extension would be alongside the existing extension. The words of the GPDO must, crucially, be read as they are written and the fundamental question to be asked, with regard to limitation (ja), is ‘Would the proposed extension be joined to the

existing extension ?". If the answer to this question is 'Yes' then the proposed extension must be judged against sub-paragraphs (e) to (j), and if the answer is 'No' then it must be concluded that the proposed extension complies with limitation (ja).

6. The drawings indicate, and the Council accepts, that there would be a gap of 200 mm between the existing and proposed extensions. On this basis it is irrefutable that the existing and proposed extensions would not be joined together; the answer to the question being 'No'. Both parties have referred to appeal decisions, and to Counsel's opinion, in which this matter has been considered. But questions in other cases about whether a gap would be material or whether existing and proposed extensions would be visually joined are not, as a matter of planning judgement, relevant.

7. The Government's Technical Guidance on the GPDO does not consider this matter, probably because it is a matter that does not require interpretation or clarification. To reiterate, the words of the GPDO must be read as they are written, and any reasonable reading of limitation (ja) must conclude that this limitation is only relevant if a proposed extension would be joined to an existing extension. The proposed extension would comply with limitation (ja) and with all other limitations and would thus be development permitted under Class A.

8. The proposed single-storey side and rear extensions would be development permitted under Class A 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 single-storey side and rear extensions at Lones Garden, Lones Hole Lane, Shalford, Braintree 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 29 September 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 A of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 13 February 2026

Reference: APP/Z1510/X/25/3358293

First Schedule

Single-storey side and rear extensions

Second Schedule

Lones Garden, Lones Hole Lane, Shalford, Braintree CM7 5JB

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: 13 February 2026

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

Land at Lones Garden, Lones Hole Lane, Shalford, Braintree CM7 5JB

Reference: APP/F5540/X/24/3337640

Scale: Not to Scale

