



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/D3640/X/25/3358430

3 Ford Road, Bisley, Woking GU24 9EJ

- 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 Mather against the decision of Surrey Heath Borough Council.
 - The application ref 24/0894/CES, dated 19 September 2024, was refused by notice dated 13 November 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 outbuilding to be used as a gym, study and plant room.
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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.
3. An application for an award of costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

Reasons

4. 3 Ford Road is a semi-detached two-storey dwelling with a front, side and rear garden. The proposed outbuilding would be in the side garden. 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 genuinely and reasonably required for purposes 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 dwelling has a living room, dining room, kitchen and bathroom at ground floor level and two bedrooms and a nursery at first floor level. It is a modest dwelling and it is those who live in such dwellings who have more of a justifiable need for additional accommodation as opposed to those who live in large dwellings where study and gym space may be accommodated within the dwelling. A study area could not be accommodated within the dwelling because it would displace primary living space that is already limited. There is no reason to suppose that a small study of only about 8 square metres is genuinely and reasonably required for its intended purpose. That it would be exceed the size of a single bedroom is irrelevant.

7. The gym would be about 16 square metres and a plan indicates that it would accommodate a treadmill, an exercise bike and a weights rack. Even if the items of equipment were to be something else the room would only accommodate a limited number of exercise machines. The gym would be modest in size and as its use would support a healthy lifestyle for residents of the dwelling it can be judged to be genuinely and reasonably required for its intended purpose. The plant room of 4.5 square metres would be used to accommodate a green heating system linked to a ground source heat pump, and would enable the Appellant to replace a current wholly electric heating system. The plant room would contribute to a greener and sustainable future and is genuinely and reasonably required for its intended purpose.

8. The footprint of the proposed outbuilding would be similar to that of the dwelling. But it would be a modest single storey building and would not be out of scale with the dwelling, which would, in addition, retain an outdoor amenity area of significant size. The proposed outbuilding would, furthermore, be subordinate in scale to the dwelling and the adjoining dwelling which together comprise a building of significant scale.

9. The front elevation of the outbuilding would be in line with the front elevation of the dwelling. Two bay windows on the front elevation of the outbuilding would be forward of the front elevation of the dwelling and the Council maintains, therefore, that the proposal does not comply with limitation E.1(c) of Class E. The bay windows reflect similar windows on the front elevation of the dwelling, which also has a projecting central open porch. If the bay windows on the outbuilding are considered to be parts of the building then the similar windows on the dwelling and the porch must be regarded to be parts of the dwelling. The bay windows on the outbuilding would not be forward of the bay windows and porch on the dwelling and the proposed development would not, as a matter of planning judgement, contravene limitation E.1(c) of Class E.

10. The proposed outbuilding would be genuinely and reasonably required to accommodate the proposed uses and thus to achieve the intended purposes and the development would not contravene limitation E.1(c). The proposed outbuilding is development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

11. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for single storey outbuilding to be used as a gym, study and plant room at 3 Ford Road, Bisley, Woking 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 13 May 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 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: 13 February 2026

Reference: APP/D3640/X/25/3358430

First Schedule

Single storey outbuilding to be used as a gym, study and plant room

Second Schedule

Land at 3 Ford Road, Bisley, Woking GU24 9EJ

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

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Scale: Not to Scale

