



Appeal Decision

No site visit made

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2026

Appeal Ref: APP/D3640/X/25/3362668

4 Upper Park Road, Camberley, Surrey GU15 2ES

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against a refusal in part to grant a certificate of lawful use or development ("LDC").
 - The appeal is made by Mr & Mrs A Passfield against the decision of Surrey Heath Borough Council.
 - The application ref 24/0873/CES, dated 11 September 2024, was refused in part by the Council by notice dated 8 November 2024.
 - The application was made under section 192(1)(b) of the 1990 Act.
 - The development for which an LDC is sought is: "The proposals put forward comprise a single-storey, ancillary outbuilding (garage); the erection, & improvement of gates & walls; porous driveway treatment; and a new access".
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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. The planning merits of the proposed development are not relevant to this appeal. Therefore, a site visit would not help me reach a decision. I advised the main parties of my intention to determine the appeal without a site visit.
3. The Council issued a split decision for application ref 24/0873/CES. They found that the proposed gates, walls, hardstanding and new access complied with Class F of Part 1, Schedule 2 and Classes A and B of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Consequently, this appeal relates only to the single storey, ancillary outbuilding (garage) ("the outbuilding").

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC for the proposed outbuilding was well-founded.

Reasons

5. For an LDC to be granted under section 192 of the 1990 Act, it is necessary for the appellant to demonstrate, on the balance of probabilities, that the use or operations described would have been lawful on the date of the application having regard to the GPDO.
6. Class E of Part 1, Schedule 2 of the GPDO permits the construction of buildings etc incidental to the enjoyment of a dwellinghouse. The matter in dispute between the main appeal parties is whether the proposal would comply with limitation E.1

(c) which states, *“Development is not permitted by Class E if – any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse”*.

7. The dwelling has been altered by the implementation of planning permission 22/1041/FFU. However, the main appeal parties agree that the northwestern elevation of the dwelling remains the principal elevation of the original dwellinghouse. The submitted photographs and drawings lead me to agree with the main appeal parties on this matter.
8. The *Permitted development rights for householders: technical guidance*, updated 2019 (“the Technical Guidance”) advises that limitation E.1(c) of Class E of Part 1, Schedule 2 of the GPDO *“prevents permitted development anywhere in front of a hypothetical line drawn through the principal elevation to the side boundary of the land surrounding the house”*.
9. The Technical Guidance includes diagrams that suggest a straight line should be drawn consistent with the wall forming the principal elevation. Where the principal elevation comprises more than one wall facing in the same direction, all such walls form part of the principal elevation and the line for determining what constitutes *“extends beyond a wall”* will follow these walls.
10. The dwelling at the appeal site is angled within its plot and therefore, the dwelling’s original principal elevation is not parallel with the road. Drawing LDC02 Rev 1 is annotated with a hypothetical line drawn through the walls that form the dwelling’s principal elevation which extends to the boundaries on either side. The proposed outbuilding would be fully behind the hypothetical line and therefore, the appellants assert that it complies with limitation E.1(c).
11. The Council assert that the Technical Guidance requires the hypothetical line to extend to the side boundary. The line annotated on the drawing extends to the front boundary and therefore is not compliant with the Technical Guidance. To ensure the hypothetical line extends to the plot’s side boundaries, the Council contend that it should be drawn parallel to the road, extending from the northernmost corner of the dwelling. In this scenario, part of the outbuilding would be forward of the hypothetical line and would not comply with limitation E.1(c).
12. I acknowledge that the Council’s hypothetical line would extend to the plot’s side boundaries. However, the line would not be *“drawn through the principal elevation”* as shown in the Technical Guidance drawings.
13. The Technical Guidance’s advice in relation to Class E (c) is to determine what is meant by *“forward of a wall forming the principal elevation of the original dwellinghouse”*. The examples provided show a dwelling with its original principal elevation directly facing a highway. No examples show a dwelling angled within its plot. Consequently, the Technical Guidance is silent on the scenario before me.
14. In my opinion, the logical approach when the dwelling is angled within its plot would be to draw a hypothetical straight line through the walls forming the principal elevation of the dwelling, as indicated within the Technical Guidance. The line should be extended to the plot’s boundaries, whichever those may be (e.g. front, side, rear etc) and the area in front of this hypothetical line would be forward of a wall forming the principal elevation of the original dwellinghouse. Consequently,

the outbuilding would not extend forward of a wall forming the principal elevation of the original dwelling.

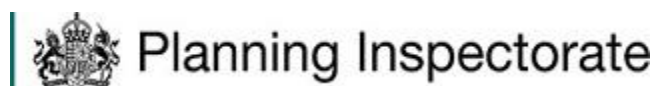
15. The Council considers the outbuilding accords with all other limitations within Class E of Part 1, Schedule 2 of the GPDO. From the information before me, I have no reason to disagree with the Council's assertion on this matter. As such, I am satisfied that, on the balance of probabilities, the proposal would comply with Class E of Part 1, Schedule 2 of the GPDO and would have been permitted development on the date of the application.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal in part to grant an LDC for a single-storey, ancillary outbuilding (garage); the erection, & improvement of gates & walls; porous driveway treatment; and a new access is not well-founded and the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act.

A Berry

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 11 September 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development is permitted development pursuant to Classes E and F of Part 1, Schedule 2; and Classes A and B of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for which planning permission is granted by Article 3(1) of that Order.

Signed

A Berry

INSPECTOR

Date: 20 February 2026

Reference: APP/D3640/X/25/3362668

First Schedule

The proposals put forward comprise a single-storey, ancillary outbuilding (garage); the erection, & improvement of gates & walls; porous driveway treatment; and a new access.

Second Schedule

Land at 4 Upper Park Road, Camberley, Surrey GU15 2ES

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 20 February 2026

by A Berry

Land at: 4 Upper Park Road, Camberley, Surrey GU15 2ES

Reference: APP/D3640/X/25/3362668

Scale: Not to Scale

