



Appeal Decision

Site visit made on 24 February 2026

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2026

Appeal Ref: APP/M5450/X/24/3344194

67 Warham Road, Harrow, HA3 7JA

- 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 Wing Lam against the decision of the Council of the London Borough of Harrow.
 - The application ref P/2146/23, dated 20 July 2023, was refused by notice dated 28 September 2023.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is outbuildings' overhang.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing operation which is found to be lawful.

Preliminary Matters

2. An application under s191(1)(b) of the Town and Country Planning Act 1990 as amended (the 1990 Act) seeks to ascertain whether the operations which have been carried out are lawful. Such applications are determined on the basis of fact and law, and this means that planning merits can form no part of my assessment as to whether a LDC should be granted. The onus lies with the appellant to make his case on the balance of probabilities.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. That turns on whether the operations would have been lawful on the date of the LDC application on the basis that they were granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), as then in force.

Reasons

4. Subject to limitations, Article 3 and Schedule 2, Part 1, Class E(a) of the GPDO grant planning permission for, amongst other things, the provision within the curtilage of the dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse as such.
5. The limitation in dispute is paragraph E.1(h), which is that development is not permitted by Class E if it would include the construction or provision of a verandah, balcony or raised platform.

6. The outbuilding is located in the rear garden of the extended semi-detached dwelling at No 67 Warham Road. Its principal elevation, which includes two windows and bi-folding doors, is orientated towards the side boundary. The roof of the outbuilding projects forward of that elevation by 1.75m across the entirety of its width. The crux of the dispute is whether that amounts to or creates a verandah.
7. The Government's Technical Guidance¹ for householder permitted development rights states that a verandah is understood to be a gallery, platform, or balcony, usually roofed and often partly enclosed, extending along the outside of a building at ground level.
8. The Council argue that the "combination of the canopy running alongside the outbuilding, and the outdoor tiling raised above the natural ground level in this location could be considered to meet this definition. The tiled area under the canopy's relationship to the boundary fencing, including the reduced height differential, is highlighted."
9. However, for the most part, the level of the paving underneath the roof overhang is the same as that of the main rear amenity space running from the rear of the dwelling. There is a small step towards the end of the area in front of the outbuilding, where levels reduce towards the rear of the site, and a small step up to the bi-folding doors, but there is no platform as such. The paving is also the same as that which covers the majority of the rear amenity space and there are no railings or balustrades, or any other physical feature which defines or distinguishes the space underneath the overhang from that which falls outside of its extent.
10. The overhang also appears part of a single continuous roof structure and there are no supports or columns as often found as part of a verandah. Moreover, as part of the outbuilding, with no link to the main house, the roof does not act as a covered passageway, which might normally be associated with a gallery.
11. The purpose of a verandah would normally be to provide outdoor living space, such as for sitting and eating out. Whilst the size of the roof overhang is likely to be sufficient to accommodate outdoor seating and potentially a small table, it is unlikely that the space channelled between the face of the outbuilding and the side boundary would be particularly attractive in that regard, so as to be a preferred option over the paved area immediately to the rear of the dwelling, which is the conventional location for sitting out.
12. Therefore, there appears to be nothing in particular to suggest that the area underneath the roof overhang functions as a space in its own right, and indeed the appellant has submitted a signed "Statement of Truth" which states that his intention and use of the overhang is not that of a verandah.
13. Usually, the principal purpose of a roof overhang is for weather protection. Although the extent of the projection is excessive for that purpose, given the above considerations, it is more likely than not, just to be a roof overhang, rather than a verandah. The operations do not therefore conflict with Class E limitation E.1(h). The Council's position is that all other Class E limitations would be met, and I find no reason to take a contrary position.

¹ Permitted development rights for householders – Technical Guidance – September 2019 - Ministry of Housing, Communities & Local Government

14. Under s191(4) of the 1990 Act, any LDC granted must describe the existing use or development found to be lawful. That may not be exactly what was written on the application form, and so s191(5) enables a local planning authority to modify the description. An Inspector may exercise that power on appeal and is indeed obliged to issue a LDC for any existing use or development that is shown to be lawful on the facts and evidence.
15. In this case, the development for which a certificate is sought is “outbuildings’ overhang”. That would more accurately be described as outbuilding with overhanging roof because the overhang does not exist as a separate entity; the outbuilding and overhang are likely part of the same, single act of development. The Council’s report therefore understandably describes the details of the application as “outbuilding with 1.75m canopy/verandah to front”. However, because I have not found there to be a verandah, the description should not include reference to the same.
16. Because the appellant relies on Class E permitted development rights, that means that the outbuilding can only be lawful in those terms if required for incidental purposes. The existing plans show it to be used as a gym, with shower room and small pantry. Before considering each aspect in turn, it is worth highlighting that the essential feature of an incidental use is that it should have a functional relationship with the primary use, and the relationship should be one that is normally found.
17. A gym is clearly capable of being a use incidental to the residential use of the main house. In this case, it is shown to take up the majority of the internal floorspace, accommodating four items of kit along with associated circulation space. Whilst fairly large, it is not disproportionately or unreasonably so.
18. A shower and toilet would usually be comprised within the everyday living facilities of the dwelling and thus be part of the primary living accommodation. Nevertheless, I can see no reason why such a facility should not be regarded as part of an incidental gym use if integrated within it and subservient to it, as in this case.
19. Use for part of the building as a pantry is also an incidental storage type use. Although I saw that it resembles a kitchen, insofar as it comprises kitchen units and a sink, I have no evidence that it contained any cooking facilities at the time the application was made, or indeed that it was used for such purposes. Moreover, the appellant confirms in his statement of truth that he has only used the outbuilding for the purposes of a gym and to store exercise related equipment. That is consistent with the photographs provided.
20. I am therefore satisfied that at the time of the application the outbuilding was used for purposes which were incidental to the enjoyment of the dwellinghouse as such, on the balance of probabilities. The development therefore amounts to permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the GPDO and would be granted planning permission by Article 3(1) of the same.
21. As the outbuilding is lawful on that basis, the description should be further modified to read: “Outbuilding (with overhanging roof) required for purposes incidental to the enjoyment of the dwellinghouse”.

Conclusion

22. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Richard S Jones

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 20 July 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and would be granted planning permission by Article 3(1) of the same.

Signed

Richard S Jones

INSPECTOR

Date: **19 March 2026**

Reference: APP/M5450/X/24/3344194

First Schedule

Outbuilding (with overhanging roof) required for purposes incidental to the enjoyment of the dwellinghouse

Second Schedule

Land at 67 Warham Road, Harrow, HA3 7JA

IMPORTANT NOTES – SEE OVER

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: **19 March 2026**

by **Richard S Jones**

Land at: 67 Warham Road, Harrow, HA3 7JA

Reference: APP/M5450/X/24/3344194

Scale: Not to Scale

