



Appeal Decision

Site visit made on 25 April 2026

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2026

Appeal Ref: APP/C4235/X/25/3368811

35 Moor Lane, Woodford, Stockport SK7 1PW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Paul Clark against the decision of Stockport Metropolitan Borough Council.
 - The application ref DC/095019, dated 25 February 2025, was refused by notice dated 15 April 2025.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is a proposed garden room comprising a home gym, games room, and storage area.
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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 proposed garden room comprising a home gym, games room, and storage area which is found to be lawful.

Preliminary Matters

2. An LDC is not an application for planning permission. Its purpose is to enable the appellant and others to ascertain whether specific operations or activities would be lawful. The burden of proof is upon the appellant. The test of the evidence is one of balance of probability. The appeal concerns only the lawfulness of the matter for which the LDC is sought, not its planning merits. The decision is based on the facts of the case and on relevant planning law and judicial authority.
3. An application under S192(1)(b) of the Act seeks to establish whether any operations proposed to be carried out in, on, over or under land are lawful. Thus, the question is whether the proposed operations would be lawful if it begun on the date of the LDC. S192(2) of the Act sets out that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case, they shall refuse the application.

Main Issue

4. The main issue is whether the Council's decision to refuse the application was well founded. This turns on whether the appellant can show, on the balance of probability, that the proposed garden room comprising a home gym, games room, and storage area would accord with Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) and does not require planning permission.

Reasons

6. The appellant contends that the proposed garden room is permitted development because it accords with Schedule 2, Part 1, Class E of the GPDO. This is on the

basis that the proposed garden room meets the criteria within that class, including that it would be within the curtilage of the dwellinghouse.

7. The Council does not dispute the appellant's view about the size or make-up of the proposed garden room being in accordance with the criteria of Class E. Nor is there any dispute about the garden room being incidental to the enjoyment of the dwellinghouse. But the Council says that the proposal would not be within the curtilage of the dwelling house and thus would not be permitted development.
8. The term 'curtilage' is a term of art. There is no single authoritative definition of the term, but it should not be confused with the concept of the 'planning unit', as while the two terms may cover the same area, that may not always be the case. Nor does it mean that the two terms are the same thing. Further, the concept of curtilage is not a use of land.
9. Determining what the 'curtilage' is here is a matter of judgement based on the circumstances of the case as a matter of fact and degree, but the decision maker should use the ordinary meaning of words¹. There are, however, factors to have regard to in the judgment of HM Attorney-General ex rel Sutcliffe & Rouse & Hughes v Calderdale BC [1983] JPL 310. Those are the physical layout of the building and the land or building said to be in the curtilage; ownership (past and present); and the use or function (past and present) applied. Even so, it is for the decision-maker to decide what weight each of the factors carries².
10. Physical enclosure is not necessary³, but the degree to which the building and claimed curtilage fall within one enclosure⁴ is relevant as an aspect of the test of physical layout⁵. The size of the curtilage relative to the building need not be confined to a small area, but it may nevertheless be a relevant factor⁶. That said, land in the curtilage must have an intimate association with the building to be undoubtedly within the curtilage⁷.
11. Neither the Act nor the GPDO contains a definition of 'curtilage'. The Permitted development rights for householders Technical Guidance sets out what is understood by the term 'curtilage'. "This is land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area."
12. With this context in mind, the land in question lies to the rear of the appeal property, which is a two-storey detached dwelling located on the western side of Moor Lane. The dwelling forms part of a ribbon development of dwellings with rear gardens enclosed by boundary treatments and/or landscaping. Woodford Cricket Club lies to the rear of the appeal site, beyond which is agricultural land. Woodford Scout Group is to the side and rear of the appeal site.
13. The dwelling and the land immediately to its rear were acquired by Mr Norman Smylie in 1932. On 29 August 1934, Mr Smylie purchased a piece of land to the rear of that. Collectively, the two parcels of land make up a 'T'-shaped garden to

¹ Brutus and Cozens [1973] AC854; Dyer v Dorset CC [1988] 3 WLR 213.

² Burford v SSCLG & Test Valley BC [2017] EWHC 1493 (Admin)

³ Sinclair-Lockhart's Trustees, endorsed in McAlpine v SSE [1995] JPL B43

⁴ Lowe v FSS & Tendring DC [2003] EWHC 537 (Admin)

⁵ R (oao Sumption) v Greenwich LBC [2007] EWHC 2276 (Admin); Challenge Fencing Ltd v SSCLG & Elmbridge BC [2019] EWHC 553.

⁶ Challenge Fencing Ltd v SSCLG & Elmbridge BC [2019] EWHC 553

⁷ McAlpine v SSE [1995] JPL B43 and Methuen-Campbell v Walters [1979] 1 QB 525

the rear of the dwelling. The two titles were merged, and the totality of the land, including the appeal property, falls within a single title. Since 1934 the land has been owned as a single entity (by different people) until the present day. The current owners purchased the house and its land on the basis that the whole of the land was part and parcel of the domestic garden of No 35.

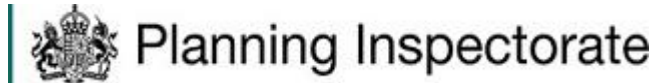
14. Historically there were two separate parcels of land, and the larger western portion was not originally part of the curtilage of No 35. That reflected the pattern of boundaries of neighbouring properties on Moor Lane. But the GPDO does not stipulate that the land must be part of the original curtilage; it just says 'curtilage'. Thus, it is not essential for the land in question to have been part of the original curtilage; the question is whether it is now or, in this case since 1934. Photographs show that the land to the rear of the dwelling is lawned, and there is no physical barrier dividing the two historic sections of land. The use of the land as a garden is not determinative in this matter, but the whole parcel of land can only be accessed from No 35 by its occupiers, while the boundaries of the land are either fenced or lined by established landscaping, which indicates that the arrangement has been in situ for some time. The whole of the land therefore appears physically part of the same curtilage to the rear of the dwelling.
15. The Council cites other examples nearby of dwellings with large rear gardens which are lawned, have boundary hedges and are without a barrier to the dwelling. However, my determination relates to the appeal site and no other properties. The circumstances relating to those properties are not before me, and they do not influence my view either way about the appeal property and the task at hand.
16. The appeal site has post 1934, formed a single enclosure of land associated with No 35. Supporting evidence, including firsthand testimony, explains how the land has been used by the different previous occupiers and their family members. There is no suggestion that there was any distinction in how the land was used or functioned as a domestic garden. Aerial images and photographs bear that out, unlike the 1945 image, which is grainy and is of poor quality. But even if it did suggest that the use and function of the land were not the same, this point in time is prior to the first-hand testimony recorded in the statutory declaration post-1969, which is direct evidence of substance. That sets out how the land has been used and functioned since at least 1969. This has been continuous as a single entity. Therefore, I do not find the 1945 image to be determinative to the issue.
17. Furthermore, although aerial images and photographs represent differing points in time and a snapshot of the situation at that time, the collective body of evidence leads me to conclude that, on the balance of probability, the curtilage of No 35 is that as outlined in red on the submitted site location plan because it is part and parcel of the same enclosure. Consequently, I conclude that the proposal would accord with Schedule 2, Part 1, Class E of the GPDO.

Conclusion

18. For the reasons given above, I conclude, on the evidence before me, that the Council's refusal to grant a certificate of lawful use or development for the proposed garden room comprising a home gym, games room, and storage area is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the Act.

Andrew McGlone

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 25 February 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 operations fall within Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Signed

Andrew McGlone

Inspector

Date: 6 May 2026

Reference: APP/C4235/X/25/3368811

First Schedule

The proposed garden room comprising a home gym, games room, and storage area.

Second Schedule

Land at 35 Moor Lane, Woodford, Stockport SK7 1PW.

IMPORTANT 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 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, would not be 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 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: 6 May 2026.

by **Andrew McGlone BSc MCD MRTPI**

Land at: 35 Moor Lane, Woodford, Stockport SK7 1PW

Reference: APP/C4235/X/25/3368811

Scale: Not to Scale

