



Appeal Decisions

Site visit made on 22 April 2026

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

Decision date: 15th May 2026

Appeal A Ref: APP/M1520/X/25/3365908

73 The Chase, Thundersley, BENFLEET, Essex, SS7 3BZ

- 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 Aaron Stevens against the decision of Castle Point Borough Council.
- The application ref 25/0181/CLP, dated 1 March 2025, was refused by notice dated 20 March 2025.
- The application was made under section 192(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 a Proposed Outbuilding.

Appeal B Ref: APP/M1520/D/25/3365879

73 The Chase, BENFLEET, SS7 3BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Aaron Stevens against the decision of Castle Point Borough Council.
- The application Ref is 25/0180/FUL.
- The development proposed is Construction of a single storey outbuilding.

Decisions

Appeal A

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development for the proposed outbuilding which is found to be lawful.

Appeal B

2. The appeal is allowed and planning permission is granted for Construction of a single storey outbuilding at 73 The Chase, BENFLEET, SS7 3BZ in accordance with the terms of the application, Ref 25/0180/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing numbers 01/Rev B Location Plan, 02/Rev B Site/Block Plan, 05/Rev B Proposed Floor Plans, and 06/Rev B Proposed Elevations.

Appeal A

3. The appeal property is a detached dwellinghouse, currently being redeveloped, set in a relatively large plot, part of was apparently formerly part of the rear garden of the adjoining property, No 77 and purchased by the former owner of No 73 in the 1960's. This appeal seeks to establish that the proposed outbuilding would be development permitted by Schedule 2, Part 1, Class E of The Town and Country

Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Development permitted by Class E includes the provision within the curtilage of the dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such. There is no dispute that the proposal satisfies the Class E limitations, including the height limitation, and that it is required for a purpose incidental to the enjoyment of the dwellinghouse as such, but the Council is of the view that the part of the garden on which it is proposed to be erected is not within the curtilage of the dwelling.

4. It appears from aerial photographs that until the dwellinghouse redevelopment commenced the rear of the garden had trees on it, with a lawn, small outbuildings and an enclosed garden area closer to the house. At the Council's site visit it noted that the trees had been cleared, but it was considered to still have a different character to the part of the site nearer the house. At my own site visit the replacement dwelling construction works were well advanced and a swimming pool was under construction in the rear garden near the proposed site of the outbuilding, but the character of all parts of the rear garden were much the same, presumably due to site clearing works shown in photographs provided by the appellant.
5. Curtilage defines an area of land in relation to a building and not a use of land. Frequently the relationship of a residential curtilage as an area of land used ancillary to the dwellinghouse will also equate with the residential planning unit, but its extent is a matter to be determined on the facts in any particular case. However, the Courts have given some guidance on the determination of residential curtilage. Factors to have regard to include the physical layout of the building and land, ownership past and present and the past and present use or function of the land. Physical enclosure is not necessary, but the degree to which the building and claimed curtilage fall within one enclosure is relevant as an aspect of the test of physical layout. The size of the curtilage relative to the building need not be confined to a small area, but it may nevertheless be a relevant factor. That said, land must have an intimate association with the building to be within the curtilage.
6. The appellant is a relatively new owner of the land and so there is little in the way of direct evidence of how the land was used since its incorporation into No 73, but I have no doubt that the lawful use of the land is for residential purposes. Photographs provided by the previous owner appear to show little in the way of different uses or functions of the garden land, while in an aerial image from 1999 the entire rear garden has a similar domestic character. It is physically enclosed with the dwelling and it is likely to have been since its incorporation into No 73. Although deeper than neighbouring gardens, Ordnance Survey mapping shows it the same as most gardens along The Chase in 1972, subsequent development having reduced the size of other gardens since then. But in any case, the distance between the dwellinghouse and the rear boundary of the garden is not particularly great. At present the land on which the proposed outbuilding would be sited is indistinguishable from the rest of the rear garden. Overall, as a matter of fact and degree, I consider that the outbuilding would be sited within the curtilage of the dwelling. It is enclosed with it, in the same ownership and has been for many years, its spatial relationship with the host building is relatively intimate and historically similar to the neighbouring properties and so is typical of how the properties were laid out in the first place, a factor that normally indicates curtilage in urban developments.

7. I conclude accordingly that the proposed outbuilding would comply fully with the Part 1 Class E requirements. It follows that the Council's refusal to grant a certificate of lawful use or development for the outbuilding was 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.

Appeal B

8. The single storey outbuilding the subject of this appeal is the same as that for which the Appeal A LDC was refused. The application for planning permission was refused because of its size and remoteness from the host dwelling, resulting in a lack of subservience. These matters effectively fall away because it complies with GDPO Part 1 Class E, a fallback position of determinative weight. Its relationship with neighbouring properties is not likely to cause issues with overlooking, loss of natural light or outlook, and while there may be noise, or lighting impacts associated with its use, this is unlikely to be uncharacteristic in a suburban area. There is a possibility that badgers were occupying the site before it was cleared for the dwelling redevelopment, but that is a matter that should have been fully considered in the planning permission process for the host dwelling.
9. Having regard to the fallback therefore, I conclude that the development accords with the development plan and there are not material considerations to outweigh that. I shall therefore allow the appeal and grant planning permission for the outbuilding. In addition to the standard commencement condition I shall require that the development is built in accordance with the submitted plans.

Paul Dignan

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 1 March 2025 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 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed outbuilding complies with the requirements of Class E (buildings etc incidental to the enjoyment of a dwellinghouse) of Schedule 2, Part 1 of the General Permitted Development (England) Order 2015 (the GDPO).

Signed

Paul Dignan
INSPECTOR

Date: 15th May 2026
Reference: APP/M1520/X/25/3365908

First Schedule

Proposed outbuilding.

Second Schedule

Land at 73 The Chase, Thundersley, BENFLEET, Essex, SS7 3BZ

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 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, 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.

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.

