



Appeal Decision

Site visit made on 20 May 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2026

Appeal Ref: APP/L5240/X/25/3361235

3 Park Road, Kenley CR8 5AS

- 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 Andrew Mackenzie against the decision of the Council of the London Borough of Croydon.
 - The application ref 24/03973/LP, dated 2 November 2024, was refused by notice dated 15 January 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 for the “Formation of outbuilding to rear garden.”
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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 operation which is found to be lawful.

Preliminary Matters

2. The certificate seeks to establish whether the works would have been lawful on the date of the application. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded. The case must be considered solely on the facts of the case, the relevant planning law and judicial authority, and its planning merits are of no relevance. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.
3. The proposed description of development (DoD) differs between the application form and the Council's decision notice. I have determined this appeal on the basis of the DoD set out in the application form.

Main Issue

4. The main issue is whether the Council's refusal to grant the LDC was well founded. It is necessary to consider whether the proposed outbuilding would be granted planning permission by Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO).

Reasons

5. The appeal property is a detached chalet bungalow with 2 dormer windows in the roof space. The appellant seeks to establish that the proposed outbuilding would

be granted permission by virtue of Class E of Schedule 2, Part 1 of the GPDO. Subject to limitations, Class E permits *“buildings etc incidental to the enjoyment of a dwellinghouse.”*

6. The Council determined that the proposed outbuilding fails to meet Part E.1(c) of Schedule 2, Part 1, Class E of the GPDO. Part E.1(c) states that 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. For the purposes of the GPDO “original” means (a) in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date; (b) in relation to a building, other than a building which is Crown land, built on or after 1st July 1948, as so built.
7. The parties disagree on what constitutes the principal elevation for the purpose of permitted development rights under Class E of the GPDO. The Council consider that the elevation facing towards Ravenswold to be the principal elevation, primarily due to the presence of the front door and vehicular driveway on this elevation. They have referred to another appeal decision from Wyre Forest District Council in support of their case that the principal elevation is usually what is understood to be the front of the house.
8. In contrast the appellant states that the elevation which faces towards the Park Road, which sets the post code for this property, and contains two bay windows is the principal elevation. Therefore, the main issue is which elevation is the principal one. The burden of proof in this matter lies with the appellant.
9. The Government’s Technical Guidance (TG)¹ provides a useful guide to interpretation of the GPDO. The TG gives an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances. In the guidance for “principal elevation” it states:

“In most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.”
10. The above guidance makes clear that in “most cases” the principal elevation will be elevation fronting the main highway but also allows for scenarios where this is not the case. It is therefore a matter of planning judgement based on the particular facts of the case.
11. It is clear from the evidence submitted, including the land registry plan, and the TPO plan submitted that that the original property formerly comprised a larger plot of land with a relatively long front garden fronting Park Road. In the front section of that front garden a new dwellinghouse has been created.

¹ The Ministry of Housing, Communities and Local Government’s publication ‘Permitted Development Rights for Householders’ Technical Guidance, September 2019.

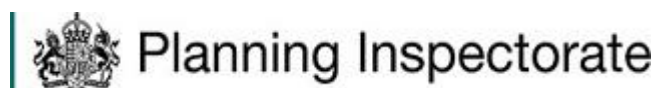
12. Following the subdivision and separation of part of the original plot of land which fronts Park Road, the front door and driveway is now located on the Ravenswold facing elevation, rather than the Park Road elevation. While these changes appear to have changed how the building now functions, what is relevant is the principal elevation of the “original” dwellinghouse. In this respect, the Park Road facing elevation contains the two original bay windows, which are the main architectural features of this property, and remain in place today.
13. The Park Road facing elevation is also the elevation that sets the post code and address for this dwelling. Furthermore, the area where the proposed outbuilding is proposed has been described by Land Registry as “*Land at the back of 3 Park Road*”. This adds further weight that the principal elevation is the one facing towards Park Road.
14. Therefore, as a matter of fact and degree, and on the balance of probabilities, I consider that the Park Road elevation containing the most prominent architectural features (that being the 2 bay windows) is the principal elevation. The development would not fail to meet the limitations under Part E.1(c) of Schedule 2, Part 1, Class E of the GPDO, since the outbuilding would not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
15. The Council have raised no conflict against any of the other limitations and conditions of Article 3, Schedule 2, Part 1, Class E of the GPDO, and from my reading of the plans, I find no reason to disagree with these findings.

Conclusion

1. For the reasons given above I conclude, on the evidence now available, that the Council’s refusal to grant a certificate of lawful use or development in respect of the “Formation of outbuilding to rear garden” was not well-founded and that the appeal should succeed. I exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Satheesan

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 2 November 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 development is “permitted development” falling within Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for which planning permission is granted by Article 3(1) of that Order.

Signed

R Satheesan

INSPECTOR

Date: 29 May 2026

Reference: APP/L5240/X/25/3361235

First Schedule

Formation of outbuilding to rear garden

Second Schedule

Land at 3 Park Road, Kenley CR8 5AS

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: 29 May 2026

by R Satheesan

Land at: 3 Park Road, Kenley CR8 5AS

Reference: APP/L5240/X/25/3361235

Scale: Not to Scale

