



Appeal Decision

Site visit made on 1 June 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 03 June 2026

Appeal Ref: APP/Y3615/X/24/3351669

Amberwell, Newlands Corner, Guildford, Surrey GU4 8SE

- 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.
 - The appeal is made by Ms Linda Dymore-Brown against the decision of Guildford Borough Council.
 - The application ref 24/P/00351, dated 8 March 2024, was refused by notice dated 1 May 2024.
 - 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 was described as *'Single storey outbuilding ancillary to the house containing a garage, property entrance, study and swimming pool with materials and glazing to match the existing building. The roofline to follow the fall of the land to ensure a maximum height of the building from ground level is 2.5m at all points. Apart from the garage, which is sloping internally, the proposed ground floor is cut into the slope of the land. The principal elevation of the existing building, where the front door is located, is the east elevation'*.
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Decision

1. The appeal is allowed. Attached to this decision is a lawful development certificate describing the proposed operation which is found to be lawful.

Preliminary Matters

2. The description in the banner heading above is taken from the application form. The appeal form used the more concise description *'single storey detached outbuilding incorporating a swimming pool, garage and study'*. This description was also essentially used by the Council in its decision notice. I have determined the appeal on this same basis and used this description for the certificate.
3. After the current appeal was lodged, an Inspector considered another appeal by the same appellant on the same land for a proposed outbuilding and issued a lawful development certificate¹. I have not been provided with copies of the plans. As I understand it, this larger outbuilding in the same uses as the current appeal outbuilding was refused by the Council for effectively the same reasons. The current appeal has not been withdrawn so must be determined, although there is little evidence both outbuildings could lawfully be erected together.

Main Issue

4. The main issue is whether the Council's decision to refuse the application for a lawful development certificate was well founded.

¹ APP/Y3615/X/24/3340338

Reasons

5. The application sought to establish whether the proposed outbuilding would have been lawful if this development had begun when the application was made on 8 March 2024 (the relevant date). For the appeal to succeed, the onus is firmly on the appellant to demonstrate, on the balance of probabilities, that the outbuilding was lawful then. This turns on whether it was permitted development, granted planning permission by Article 3(1) and Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO).
6. Amongst the other stipulations of Class E (and which are not in dispute) buildings provided within the curtilage of a dwellinghouse (also not in dispute) as permitted development must, in paragraph E.(a), be built as *'required for a purpose incidental to the enjoyment of the dwellinghouse as such'*. The nub of the dispute is whether the outbuilding would have been used by the occupant(s) of Amberwell in this way, including considering its size and the size of this house.
7. This phrase is not defined in the GPDO. Considering established caselaw, whether an outbuilding is required is largely a matter for the occupant(s) of a house to determine, subject to reasonableness and the circumstances of a particular case, not the whim of any individual occupant. It is also generally accepted that an incidental purpose is a subordinate activity either connected with the running of a house or with the domestic or leisure activities of the persons living in it. Though relevant, the intrinsic size of an outbuilding or in relation to the size of a house are not determinative factors.
8. According to the plans before me, and as observed during my site visit, with a ground floor of about 8.5m by 7.4m and narrower first floor, Amberwell is a modest detached house in a large curtilage. After internal re-arrangement (as is also shown in the plans before me) the downstairs would be sufficiently large for a small living room, moderate open plan dining and kitchen area and a compact bathroom with toilet. Upstairs would remain as two small bedrooms.
9. In order to follow the shape of the plot and contours of the land in relation to the house, a staggered, irregular shaped floorplan means the single storey outbuilding would be (according to the plans) some 26m by 14m in overall dimensions. It is also significantly larger in floorplan and floor area than the house. However, most of it is for a pool with surround and a changing room. The rest is a convenient amalgamation of uses (study, garage and pedestrian entrance) in a single building.
10. Paragraph E.4 of the GPDO includes some purposes incidental to the enjoyment of a dwellinghouse. While these do not apply to the outbuilding it is not a closed list. Moreover, any building, including a swimming or other pool, is expressly provided for by Class E.(a) if it is required for a purpose incidental to the enjoyment of the dwellinghouse as such. Government guidance sets out that this could include common buildings, such as a garage, but not normal residential uses such as separate self-contained accommodation or primary living accommodation such as a bedroom, bathroom or kitchen².
11. Though relatively unusual at most dwellinghouses, the covered pool would be sufficient in width and length for meaningful leisure, relaxation, play or exercise

² Permitted development rights for householders - Technical Guidance, September 2019

use. The small changing room would be convenient considering that albeit near the house, the outbuilding would be detached from it. Even though the changing room includes two showers, a toilet and two hand wash basins, the outbuilding would contain no bedroom or kitchen. These would be required for use of it as separate, self-contained living accommodation.

12. Moreover, the close proximity and layout of the outbuilding to the house would create a largely enclosed intervening courtyard space with convenient external access between the outbuilding and the house. This means there would be little realistic opportunity to sub-divide this part of the land and separate the outbuilding from the house.
13. A study is not an uncommon habitable room in a house. But there is little evidence that a study should be regarded as primary living accommodation. Nor that a study is integral to, or part and parcel of, the ordinary use of Amberwell as a house in the same way as a bedroom, bathroom or kitchen are necessary and essential for dwellinghouse use. The study would provide sufficient space in a dedicated room for a formal garden home office. This conducive environment, away from busy internal areas of the house, could include tables or chairs for two adult occupants of the house and equipment such as a printer, shelving or for storage.
14. A narrow enclosed passageway would give pedestrian access to the house, through the outbuilding from a lane which it backs onto. A single garage would be conveniently located for the lane and take up little more space than is required to securely park one occupant's car near the house.
15. Consequently, and as a matter of fact and degree, there is very limited or no suitable space within Amberwell for the proposed uses or activity. Albeit a large outbuilding, including in relation to some aspects of Amberwell, there is no dimension, area or volumetric parameter in paragraph E.(a) of the GPDO. There is then little evidence that the outbuilding would be excessive in size having regard to the secondary, subordinate functions and extent of these that it is intended to meet, as described in the application and shown in the plans. Nor to counter that these would not be genuine and reasonably required in connection with the running of Amberwell and the domestic or leisure activities of the persons living in this house.
16. On this basis, the outbuilding would be required and provided for purposes incidental to the enjoyment of this dwellinghouse as such, so paragraph E.(a) would be met. The appellant has, therefore, shown on the balance of probabilities that the proposal was lawful on the relevant date by virtue of being permitted development, granted planning permission by Article 3(1) and Schedule 2, Part 1, Class E of the GPDO.

Conclusion

17. For the reasons given above, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate is not well-founded. Accordingly, the appeal succeeds and I will exercise the powers transferred to me in section 195(2) of the Act.

Robin Buchanan
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 8 March 2024 the operation 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 proposed outbuilding was permitted development, granted planning permission pursuant to Article 3(1) and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Robin Buchanan
Inspector

Date: 03 June 2026

Reference: APP/Y3615/X/24/3351669

First Schedule

Erection of a single storey detached outbuilding incorporating a swimming pool, garage and study, as shown in plan numbers:

- | | |
|---------------------|----------------------------------|
| • Scale 1:2500 @ A4 | Location plan |
| • 2303 PA40 Rev A | Proposed site plan |
| • 2303 PA41 Rev A | Proposed ground floor plan |
| • 2303 PA42 Rev A | Proposed first floor plan |
| • 2303 PA43 Rev A | Proposed south & west elevations |
| • 2303 PA44 Rev A | Proposed north & east elevations |

Second Schedule

Amberwell, Newlands Corner, Guildford, Surrey GU4 8SE

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: 03 June 2026

by Robin Buchanan BA (Hons) MRTPI

Land at: Amberwell, Newlands Corner, Guildford, Surrey GU4 8SE

Reference: APP/Y3615/X/24/3351669

Scale: Not to Scale

