



Appeal Decision

Site visit made on 9 June 2026

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 12th June 2026

Appeal Ref: APP/C3620/X/25/3369843

Great Oaks, Snowerhill Road, Betchworth, Surrey, RH3 7AQ

- 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 P Courtney against the decision of Mole Valley District Council.
 - The application ref MO/2025/0443, dated 17 March 2025, was refused by notice dated 23 July 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 the erection of two outbuildings and the laying out of a hard surface.
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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 operations which are found to be lawful.

Applications for costs

2. An application for costs has been made by the appellant and is subject to a separate decision letter.

Reasons

3. The appellant has a large house set in a large garden where he would like to store some of his collection of classic cars. The construction of a garage would normally be permitted development, assuming the various limitations of Class E of Part 1 were met. However, in this case the appellant's collection is substantial. A previous LDC for an 11-car garage was refused because of its size, which suggested it was not incidental. Another LDC for an 8-car garage was refused and dismissed on appeal¹, for the same reasons. This is another try for 7 cars, split between a 4-bay and a 3-bay garage.
4. Firstly, the Council argue that there is no house on the site so there are no permitted development rights to start with. The previous house (against which both previous garage LDCs were compared against) has been demolished and is being rebuilt. However, the appellant has demonstrated that the LDC application was made days before the demolition began. Therefore at the time there were permitted development rights attached to the dwelling. The LDC, if granted, would refer to the position of lawfulness at the date of application. So the correct comparison in this appeal is with the previous house.
5. Class E allows for the construction of a wide variety of buildings as long as they are "for purposes incidental to the enjoyment of the dwellinghouse". There is a

¹ APP/C3620/X/24/3350039 Issued 14 March 2025

considerable amount of case law on the question of incidental uses. This can be summarised as: incidental uses should be ordinarily incidental, they should be of a scale and nature that is incidental to the reasonable enjoyment of the dwellinghouse and size can be important but is not determinative, but purpose can be.

6. The Inspector in 2025 found that the scale of the two garages proposed (a 5 and a 3-bay unit) was beyond what would commonly be found in the curtilage of even a large dwelling. This suggested the activities associated with them could not be ancillary or subordinate to the main use as a dwelling. Given the garages were not permitted development then it followed the hardstanding was also not incidental.
7. I have had the advantage of several other decision letters which came to a variety of decisions, although none were directly comparable. In my view it is obvious that a 2-bay garage would be incidental to many dwellings, while an 11-bay garage would not. Somewhere in-between is a large garage that is incidental. How that is determined must depend on the use to which the garages are being put and their scale in comparison to the site and the dwelling.
8. In this case the use is to store a collection of classic cars. This seems to me to be a use that is reasonably related to the dwellinghouse. Many people have classic cars which they restore, maintain, and drive as a hobby so there is nothing inherently unreasonable in having a collection of classic cars.
9. As to the question of scale the previous Inspector found them to be out of scale with the dwelling. The proposal before me is just over 12% smaller than before (170sqm compared to 194sqm). This is not a large difference, but it is a difference. The previous Inspector seemed to be influenced by her view that the use was not normally associated with a dwelling, so that considered as garages, they would not be reasonably related to the dwelling. I agree that hardly anyone has 7 cars for going shopping, the school run, driving on holiday, or the other myriad of domestic purposes most of us use cars for. But that is not the primary purpose for which these cars are being used. I think a better comparison is that the garages should be considered as buildings. The 2 buildings are designed to accommodate a hobby and the hobby happens to involve cars. As such the size of the two buildings does not seem out of scale with either the dwelling or the large grounds within which it stands.
10. The house already has a number of outbuildings, a gym, pool, sheds and two other garage buildings. These latter two garages may well not be lawful. The previous Inspector did not take them into account and in this appeal the Council say they are subject to an enforcement investigation. Given the extent of the building work going on around the new house it was difficult to be certain which buildings these were and I make no comment on their lawfulness or not. However, they are presumably for housing 'domestic' cars rather than hobby cars. Whatever their use, the site is large enough to accommodate all these buildings and the larger new dwelling without appearing cramped and the existence of the range of outbuildings does not affect my decision that the two buildings subject to this LDC are incidental.
11. The associated hardstanding forms a narrow access road around the tennis court and creates an apron in front of the two garage buildings which are set at right

angles to each other. It does not seem excessive in size when it is designed to accommodate the two buildings and is clearly incidental to their use.

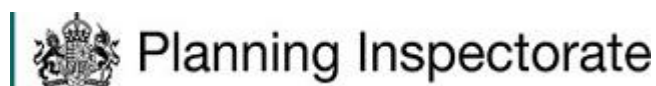
12. The status of the LDC that I shall issue has not been discussed, but it seems to me that it only confirms the lawfulness of the two buildings and hardstanding on 17 March 2025. At that date they were permitted development because they were incidental to the then dwellinghouse. The current building as I saw on site is in the process of construction and does not yet form a dwellinghouse and so has no permitted development rights. I do not think therefore the two buildings and hardstanding can now lawfully be constructed as the situation has changed radically since the date of lawfulness was ascertained. Once the new building is complete and has its own permitted development rights the two buildings could potentially be lawful, subject to them passing the tests of Class E.
13. I would say that as the new house is even larger than the old, then the relationship between the 2 buildings and the dwelling will have changed so that they would seem to be more subordinate than before. However, I cannot make a ruling on this matter as this case is not before me.

Conclusion

14. I shall allow the appeal and issue an LDC as applied for.

Simon Hand

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 17 March 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: at the date of application they were permitted development by virtue of being incidental to the dwellinghouse.

Signed

Simon Hand

Inspector

Date: 12th June 2026

Reference: APP/C3620/X/25/3369843

First Schedule

The erection of two outbuildings (a four bay and a three bay garage) and the laying out of a hard surface as shown on drawing No PG/LD/03 – project date 14/02/2025.

Second Schedule

Land at Great Oaks, Snowerhill Road, Betchworth, RH3 7AQ

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 use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were 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. 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.