



Appeal Decision

Site visit made on 19 May 2026

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08th July 2026

Appeal Ref: APP/B1930/X/25/3362249

39 The Broadway, Gustard Wood, Wheathampstead, Hertfordshire AL4 8LW

- 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. & Mrs. Charles & Hannah Pattison against the decision of St Albans City Council.
- The application ref 5/24/2206, dated 14 December 2024, was refused by notice dated 3 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 the “Construction of a single storey Annex building”.

Decision

1. The appeal is allowed.

Preliminary Matters

2. The appeal property is the subject of two enforcement notices, which allege that unauthorised development in the form of extensions to the dwelling, the erection of an outbuilding and boundary wall, and a material change in the use of land have taken place. The appellant does not dispute that the developments identified in the two notices has occurred. While appeals against those notices are being considered, they cease to be in effect.
3. Furthermore, the notices were issued on the 21 February 2025 and 24 October 2025 respectively, after the LDC was made on 14 December 2024. The LDC seeks to establish whether something would have been lawful on the date of the application. Therefore, events occurring after the 14 December 2024, such as the issuing of the two notices, do not fall to be considered in the determination of this appeal.
4. The plans that accompany the LDC include the annotation “OUTLINE OF EXTG ANNEX TO BE REMOVED”. I also saw an outbuilding in the position of the outbuilding to be removed during my unaccompanied site visit. It would therefore be reasonable to conclude the outbuilding I saw is the one proposed to be removed.
5. It has been brought to my attention that a previous application (the 2023 LDC) sought an LDC for the outbuilding proposed to be removed¹. It is not clear whether that application was refused solely because it had not been shown that the

¹ Council ref: 5/2023/1845 for Construction of an outbuilding within the rear garden was refused on 27 November 2023 as the Council found it had not been demonstrated that the proposed outbuilding would be within the curtilage of the dwellinghouse and it would not be in compliance with Class E, Part 1 of Schedule 2 of the GPDO

outbuilding would be within the curtilage of the dwellinghouse or whether some other limitation or condition of Class E had not been met.

6. There is no dispute between the main appeal parties that the host dwelling retains its permitted development rights under Class E, Part 1 of Schedule 2 of the GPDO and I shall proceed on this basis.
7. The application form describes the proposed development as an “*annex building*”. The dictionary definition of an annex is ‘a building joined to or associated with a main building, providing additional space or accommodation’. This is fundamentally different to an ‘annexe’, which would be a self-contained unit of residential accommodation providing facilities required for day-to-day private domestic existence. Given the annotation on the proposed floor plan provided, I find the proposal is for a subordinate building to provide additional space and accommodation to the existing dwelling, thereby an annex.

Reasons

8. To be clear, the subject of this appeal is an application for an LDC, not an application for planning permission. If it were an application for planning permission, my decision-making process would involve an assessment of the planning merits of the proposal and its compliance with national and local planning policies. However, since it is an application for an LDC, none of those considerations are before me. Rather, my assessment is confined to the narrow issue of determining whether the development described in the application would be lawful if instituted at the date the application was made².
9. The matter before me relates only to the operational development proposed. The **main issue** is therefore whether the Council’s refusal to issue an LDC is well founded. This turns on whether the appellants can show, on the balance of probabilities, that the proposed annex building benefits from the deemed planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). If it is shown that at the date the application was made the annex building benefitted from deemed planning permission, then the LDC should be granted. In all other circumstances, the LDC should be refused.
10. The relevant part of Class E sets out permitted development rights, subject to the conditions and limitations set out in paragraphs E.1 to E.4, for the following type of development:

‘The provision within the curtilage of the dwellinghouse of ... any building or enclosure ... required for a purpose incidental to the enjoyment of the dwellinghouse as such ...’
11. The appeal parties agree the annex building would satisfy the physical criteria set out in paragraphs E.1 to E.4, but that is not decisive. Unlike the 2023 LDC, the Council does not dispute that the proposed annex building would be within the dwelling’s curtilage. It is however the Council’s contention that the appellants have now failed to demonstrate that the proposed annex building is reasonably required for purposes incidental to the enjoyment of the dwelling in accordance with Class E.

² As per section 192(2) of the Town and Country Planning Act 1990

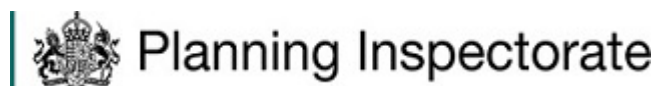
12. The Courts have held that the word '*required*' in Class E should be interpreted to mean '*reasonably required*'. Thus, in this type of case, the appellant should show that what is proposed is reasonably required for a purpose or purposes incidental to the use of the dwellinghouse as such. Otherwise, the GPDO would be open to abuse by proposals involving buildings being constructed for one stated purpose and then being used for another purpose.
13. When evaluating whether a building erected under the provisions of Class E is reasonably required for the enjoyment of the dwellinghouse as such, matters such as personal preference are not conclusive factors. The matter does not rest solely on the unrestrained whim of the householder. An unusually large building will not necessarily be reasonably required just because a householder says it is. It is for the appellant to show that a building of the proposed size is reasonably required, and that it is designed with incidental uses in mind, having regard to all the circumstances. The proposed physical size of the outbuilding is not determinative, but it is a relevant consideration.
14. The proposed annex building would have a substantial footprint and drawing number: MMCHP/TB/2 Rev A shows the internal floor space divided into 3 spaces; a games room, shower room and gym. The proposed uses of the annex building would be incidental to the use of the dwelling as a dwellinghouse. While the shower room could be construed as primary living accommodation, in my view its inclusion would not be unusual and is justified given the proposed gym and the detached nature of the annex building.
15. The presented information provides details of the appellant's personal circumstances and the benefits of having access to a home gym. Furthermore, the provision of a games room to accommodate children's or family activities is generally accepted to be an incidental purpose. The design and size of the outbuilding is not discordant or domineering in terms of the host dwelling. I do not therefore find it excessive for its intended purposes.
16. Taking these factors together, I find the appellant has shown, on the balance of probabilities, that the annex building is reasonably required for purposes incidental to the enjoyment of the dwellinghouse at 39 The Broadway. I therefore find the proposed annex building would benefit from the deemed planning permission granted by Class E of the GPDO at the material date, 14 December 2024.

Conclusion

17. 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 construction of a single storey annex building was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

M Madge

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 14 December 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black 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 annex building, containing a games room, shower room and gym, would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. The proposed annex building as shown on drawing number MMCHP/TB/2 Rev A meets the relevant conditions and limitations set out in Class E, Part 1 of Schedule 2 of the GPDO. The proposed annex building therefore benefits from deemed planning permission.

Signed

M Madge

Inspector

Date: 08th July 2026

Reference: APP/B1930/X/25/3362249

First Schedule

Construction of a single storey annex building.

Second Schedule

39 The Broadway, Gustard Wood, Wheathampstead, Hertfordshire AL4 8LW

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: 08th July 2026

by M Madge

Land at: 39 The Broadway, Gustard Wood, Wheathampstead, Hertfordshire AL4 8LW

Reference: APP/B1930/X/25/3362249

Scale: Not to Scale

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