



Appeal Decision

Site visit made on 27 June 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2026

Appeal Ref: APP/B5480/X/25/3359359

83 Crowlands Avenue Havering, Romford RM7 9HX

- 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 (LDC).
- The appeal is made by Mr M Zubel against the decision of the Council of the London Borough of Havering.
- The application Ref DC/306.24, dated 1 August 2024, was refused by decision dated 27 September 2024.
- The application was made under section 192(1)(b) of the Act.
- The proposed development for which a certificate of lawful use or development is sought is proposed rear outbuilding.

Decision

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

Reasons

2. The appeal needs to be considered in the context of the terms of development permitted by article 3, schedule 2, part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 as amended. It is evident from the reason for refusing the LDC and the associated bundle that the outbuilding in question would meet all the limitations and conditions set out in paragraph E.1 of Class E. I have no reason to question this. The Council's decision to refuse the application is founded on the claim that the outbuilding is not required for a purpose incidental to the enjoyment of the dwellinghouse as such, which is the wording contained within sub-paragraph (a) of Class E.
3. Case law provides authority for how "incidental" should be interpreted by decision makers. These authorities indicate that things like games rooms, gymnasiums and utility areas are capable of being a type of use that is incidental to the enjoyment of a dwellinghouse. In the leading case of *Emin*¹ it was held that it was wrong to conclude that an outbuilding could not be said to be required for a use reasonably incidental to the enjoyment of a dwellinghouse as such because it would provide more accommodation for secondary activities than the dwelling provided for primary activities. Nevertheless, the test must retain an element of objective reasonableness and should not be based on the unrestrained whim of an occupier². On the other hand, a hard objective test should not be imposed to frustrate the reasonable aspirations of a particular owner or occupier so long as they are sensibly related to the enjoyment of the dwelling. Although the appellant refers to several appeal decisions made by Inspectors, these judgments and the findings therein serve to illustrate that with each case it is a matter of fact and degree based on the circumstances of that specific case³.

¹ *Emin*¹ v SSE [1989] JPL 909.

² *Wallington v SoS for Wales* [1990] 62 P & CR 150; *Holding v FSS* [2004] JPL 1405; *Croydon LBC v Gladden* [1994] 1PLR 30.

³ *Peche d'or Investments v SSE* [1996] JPL 311.

4. The appeal parties talk extensively about size and comparison with the original dwelling. It seems to me that the debate reveals a deep misunderstanding of the correct approach. Firstly, there is no absolute limit in percentage terms as to how large the outbuilding can be compared with the host property. It is necessary to consider each proposal in the context within which they would be situated; an outbuilding that may be considered incidental to the enjoyment of a substantial dwelling with many occupants and large grounds may not be incidental if situated in the garden of a small dwelling or cottage with a single occupant or family. Size alone is not necessarily a determining factor and a wide range of outbuildings, for different purposes may be permitted under Class E, depending on the specific circumstances.
5. Secondly, the assessment to be made is not whether the outbuilding is incidental to the intended occupants' needs but the original or extended dwellinghouse and incidental to what existed on the date that the LDC application was made. This interpretation is consistent with the actual wording of the relevant passage of the GPDO. For example, Class E(a) refers to "...a purpose incidental to the enjoyment of the dwellinghouse as such...". The word "original" is not included in this clause but is in some of the requirements that follow in paragraph E.1, and nor is the word "owner" or "tenant".
6. Turning to the particulars of this case, no. 83 is a two-storey end terraced that has been extended to the side. In 2015, planning permission was granted to convert the main dwelling into two separate dwellings (Council ref P0703.15). It seems to me that the rear garden has been physically subdivided leaving no. 83 with a long and narrow but large garden.
7. The LDC application includes existing layout plans but more relevant are the proposed drawing 5 to 7, which show proposed floor and elevations. The proposed outbuilding would be located within the residential curtilage but in 2 metres of the site's boundaries. Although exact measurements have not been agreed between the appeal parties, there is no dispute that its overall height would not exceed 2.4 m. The drawings submitted with the LDC application illustrate that it would be located at the rear end of the garden and occupy a large proportion. Nevertheless, the total area of ground covered by buildings, enclosures and containers within the curtilage would not exceed the 50% limitation.
8. The outbuilding would provide space for a home office, fitness room and snooker room and the Council do not dispute that these activities would be functionally related to the primary use of no. 83 as a dwellinghouse. The outbuilding would not provide additional living space, but the plans show a separate washroom. The Council does not argue that such a facility already exists in the main dwellinghouse, nor does it challenge the proposed configuration or layout. It places all its reasons into one basket – the size of the proposed rear outbuilding.
9. That said, in terms of a pure comparison with the footprint of the host dwelling based on area, the outbuilding would be of a substantial size, but that is not conclusive given the site-specific scenario and circumstances. For example, no. 83's garden is a large open space and the proposed outbuilding's overall scale would remain subordinate to the main dwelling. In addition, there is nothing before me to challenge the appellant's clear and precise claim that the proposed uses cannot be accommodated in the main dwelling given its limited size. In my planning judgment, the quantum of the evidence presented shows the proposed outbuilding's size would be genuinely and reasonably required to accommodate the proposed incidental uses thus meet with the basic criteria for a Class E building.
10. As the notes attached to the LDC explain, the certificate applies only to the extent of the operation described in the First Schedule. Any operation or use which is materially different from that described may result in a breach of planning control which is liable to enforcement action by the local planning authority.

11. For the reasons given above I conclude, on the evidence now available and applying the correct approach and balance of probability test, the Council's refusal to grant a LDC in respect of the proposed outbuilding, illustrated in drawing refs 3943 no. 5, 6 and 7, 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.

A U Ghafoor

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 August 2024 the matter described in the First Schedule hereto, constituting new outbuilding ancillary to the house, in respect of the land specified in the Second Schedule hereto and edged on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

Permitted development by virtue of article 3, schedule 2, part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 as amended. For this reason, no enforcement action may then be taken in respect of the proposed outbuilding, as illustrated drawing refs 3943 no. 5, 6 and 7. The proposed outbuilding does not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

A U Ghafoor

INSPECTOR

Date: **31 July 2026**

Reference: APP/B5480/X/25/3359359

First Schedule

Proposed rear outbuilding as illustrated on drawing refs 3943 no. 5, 6 and 7 submitted with the LDC application.

Second Schedule

Land edged as shown on the plan attached to this certificate and identified as 83 Crowlands Avenue Havering, Romford RM7 9HX.

IMPORTANT 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 proposal described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date. This certificate applies only to the extent of the proposal described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation or use 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **31 July 2026**

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

Land at: 83 Crowlands Avenue Havering, Romford RM7 9HX

Reference: APP/B5480/X/25/3359359

Scale: Do not scale.



OS MAP
1:1250@A4

