



## Appeal Decision

Site visit made on 27 June 2026

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

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> August 2026

**Appeal ref: APP/B5480/X/25/3359688**

**30 Crow Lane Romford RM7 0EL**

- 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 Mrs Noqu Shah against the decision of the Council of the London Borough of Havering.
- The application ref E0020.24, dated 12 April 2024, was refused by notice dated 13 November 2024.
- The application was made under section 191(1)(a)(b) of the Act.
- The use for which a certificate of lawful use or development is described in the application as follows: "*Proposed retrospective application to continue using the existing dog leg part attached to the approved outbuilding for storage purposes*".

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. Firstly, the Act explains that if any person wishes to ascertain, amongst other things, whether any existing use or operation is lawful, they may make an application for the purpose to the local planning authority (LPA) describing the use or operation. As the Planning Practice Guidance (PPG) explains an application needs to describe precisely what is being applied for and the land to which the application relates. Without sufficient or precise information, the LPA may be justified in refusing a certificate. The LPA may choose to issue a LDC for a different description from that applied for on the facts of a case, as an alternative to refusing a certificate altogether.
3. Secondly, the word "lawful" has a specific meaning. In summary, it is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. Finally, as the PPG states, a decision-maker needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits, including personal and health circumstances, are not relevant at any stage in this application or appeal process.
4. I have reviewed all the evidence, and it seems to me that the appellant sought an LDC to retain an extension to an existing outbuilding, described in the representations as a "dog leg" and its continued storage use. There appear to be two elements to this application: use and operational development. I proceed on the basis that the existing use and operation comprises retention and continued use of the existing dog leg for storage purposes.

### Reasons

5. The onus of proof is upon the appellant. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good

reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous. Section 171B(1) of the Act provides that no enforcement action may be taken in respect any unauthorised operational development after the end of the period of 4-years beginning with the date on which the operations were 'substantially completed', unless the breach occurs on or after 25 April 2024 and the period is ten years which does not apply in this case.

6. The appellant's first argument is that the dog leg was substantially complete on or before 12 April 2020, which is the relevant date. The appellant relies heavily on the submission that at the time when previous application for planning permission was made and determined by the Council in 2021, the outbuilding including the dog leg, was already built but there is no specific detail as in timings, sequence of the work or what happened and when. The argument is that the Council should have established from site visits the outbuilding and the dog leg have been completed and were in storage use. However, given the onus, there is no documentary evidence supporting any of these claims nor is there any specific or detailed evidence demonstrating that a fully detailed outbuilding with its dog leg used for storage purposes was substantially completed on or before the relevant date. Usually, documentary evidence in the form of aerial imagery is submitted in support of these kinds of claims. Although a snapshot in time, this information provides reasonable evidential basis. In the absence of this type of evidence, it is difficult to verify the appellant's claims: I cannot go searching online for this kind of evidence.
7. The second issue is the extant enforcement notice, which is dated 11 December 2023 alleging the construction of an outbuilding at the rear of property. The requirement is to demolish the L-shaped outbuilding: the dog leg part of the "L" happens to be the subject of this LDC appeal. However, on 13 March 2024, the Council appear to have issued an LDC for the (ref D0544.23) for the partial demolition, alteration and continued use as an outbuilding on the belief that the remaining building would be permitted development. I will not go into the merits of that decision because it is wholly irrelevant, but the Council appear to have realised its own errors.<sup>1</sup>
8. That said, I am not bound by the Council's decision. Firstly, the LDC before me is for the retention and continued use of the existing dog leg part attached to the outbuilding for storage purposes. Secondly, the law is crystal clear, and I have summarised s191(2) of the Act elsewhere. The LDC application came after the enforcement notice and step (1) in section 5 of the in-force notice would be contravened. Even if an alternative view prevails on the substantial completion point, the LDC cannot be granted.

## Conclusion

9. Drawing all the above threads together, I find that the onus of proof has not been discharged because insufficient and imprecise evidence has been submitted. The Council's refusal to grant an LDC in respect of the existing use or operation claimed was well-founded. Having regard to all other matters raised, I conclude that the appeal should fail. I exercise accordingly the powers transferred to me in section 195(3) of the Act.

*A U Ghafoor*

INSPECTOR

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<sup>1</sup> By virtue of Class E, Schedule 2, Part 1 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, but the rights do not apply retrospectively and the in-force extant enforcement notice prevents the issue of an LDC if s191(2)(a) and (b) are infringed.

