



Appeal Decision

Site visit made on 15 September 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2026

Appeal Ref: APP/M1595/X/24/3350783

Woodlands, South Avenue, Langdon Hills, Essex SS16 6JG

- 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 J Cross against the decision of Thurrock Borough Council.
 - The application ref 24/00167/CLEUD, dated 12 February 2024, was refused by notice dated 30 April 2024.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is described in the application form as: 'The existing outbuilding, as indicated on submitted site plan has been used for garaging purposes incidental to the enjoyment of the original and subsequent replacement dwellinghouse'.
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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 existing use which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded.

Reasons

3. The application form and submissions clarify that an LDC is sought in respect of the existing use of a building for purposes incidental to the enjoyment of the dwellinghouse at the site, rather than for the erection of any building. The single storey building identified in the site location plan (the Outbuilding) comprises three rooms and there is nothing to suggest the use I saw it in during my site visit, for typical domestic garaging/storage purposes, was not incidental to the enjoyment of the dwellinghouse located next to it. That dwellinghouse is a replacement for a bungalow which existed when the Outbuilding was erected.
4. The onus is on the appellant to provide evidence to show, on the balance of probabilities, that the use of the Outbuilding for garaging purposes incidental to the enjoyment of the dwellinghouse was lawful on the date of the application. If there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
5. Section 57 of the Act sets out that planning permission is required for the carrying out of any development of land. Section 55 provides the relevant meaning of 'development', which includes the making of any material change in the use of any buildings or other land. Subsection (2)(d) of section 55 clarifies that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose

incidental to the enjoyment of the dwellinghouse as such shall not be taken to involve development.

6. Section 191(2) of the Act states that uses are lawful at any time if no enforcement action may then be taken in respect of them and they do not constitute a contravention of an enforcement notice. Section 171B provides that no enforcement action may be taken in respect of a material change in the use of a building outside the curtilage of a dwellinghouse to a use incidental to the enjoyment of a dwellinghouse as such.
7. There is no evidence that the Outbuilding is the subject of any enforcement notice. There is also no evidence as to whether the Outbuilding is within the residential curtilage of any dwellinghouse.
8. The appellant's case relies on signed statements from various parties which refer to a building being present since the 1970s, which was used by a previous owner for housing a car and garden tools/furniture. Some of these signed statements refer to that building continuing to be used for the same purposes up to the current time. None of the signed statements clarify which building they are referring to. However, based on everything I have read and seen, there can be very little doubt that they are referring to the Outbuilding, which I saw in use for the purposes described during my site visit.
9. The construction, layout and position of the Outbuilding in relation to the dwellinghouse are typical for a domestic outbuilding used for purposes incidental to the enjoyment of the dwellinghouse and reflect the contents of the signed statements. The lack of detailed information in the signed statements does not therefore take anything away from the basic things they confirm when considered alongside all the other evidence, including that the Outbuilding has been used to house a car and garden items for a substantial period. No evidence suggests otherwise.
10. Plans submitted with the application and previous applications may well show the Outbuilding with different footprint areas, but this does not mean that the evidence relevant to the appeal is contradictory. An aerial photograph pre-dating the demolition of a bungalow at the site in 2008 shows that the Outbuilding is of significant age. Moreover, aside from a timber framed canopy to the front, I am confident from the evidence and what I saw during my site visit that the external walls of the Outbuilding have remained unaltered for a substantial period. The footprint of the Outbuilding does not therefore need to be clarified where an LDC is sought merely for the existing use of the existing building.
11. The Council has referred to a condition attached to planning permission reference 19/00317/FUL which is said to state: *'Within 3 months following the first operational use of the building hereby approved the existing mobile home, dilapidated outbuildings and containers as identified 1 to 4 on drawing no. JC/BP/1 on the site shall be demolished and the resulting material removed from the site. The local planning authority shall be notified in writing of the first operational use of the building within 10 working days of that event.'*
12. I have not been provided with the full details of that planning permission, but the Council has provided a copy of plan reference JC/BP/1 which shows the Outbuilding labelled 'dilapidated outbuildings'. The appellant was not afforded the opportunity to respond to this new information submitted at Final Comments stage,

but it is evident that the storage/workshop building approved by that planning permission has not been constructed and brought into use yet. As such, this condition would not have affected the lawfulness of the Outbuilding or its use on the date of the application for an LDC. Granting an LDC as sought would not remove any need to comply with any outstanding planning conditions attached to any planning permission at a later stage.

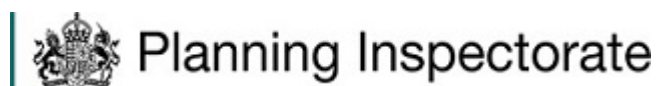
13. Overall, there is minimal evidence relating to how the Outbuilding has been used prior to the date of the application. However, considering the state of the Outbuilding seen during my site visit alongside the pre-2008 aerial photograph and the signed statements, as a matter of fact and degree, even on this minimal evidence, it is more likely than not that the Building has been in use for garaging purposes incidental to the enjoyment of the adjacent dwellinghouse for a period substantially in excess of 10 continuous years prior to the date of the application for an LDC. The Council has not disputed the appellant's claims.
14. Therefore, even if the Outbuilding is outside the residential curtilage of the dwellinghouse, the evidence shows, on the balance of probabilities, that its use for garaging purposes incidental to the enjoyment of the dwellinghouse was lawful on the date of the application for an LDC. This can be confirmed in an LDC without referring to the disputed elevation and floor plans.

Conclusion

15. For the reasons given above, on the evidence now available, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the outbuilding in the position shown on submitted plans for garaging purposes incidental to the enjoyment of the dwellinghouse was not well-founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

L Douglas

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 12 February 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and coloured blue 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:

The evidence shows, on the balance of probabilities, that the outbuilding located in the area coloured blue on the plan attached to this certificate had been in use for purposes incidental to the enjoyment of the adjacent dwellinghouse, such as for the garaging of a car and storage of garden furniture and tools, for a continuous period in excess of 10 years prior to and on the date of the application for a Lawful Development Certificate. With regard to sections 171B and 191 of the Town and Country Planning Act 1990 (as amended), if the building is outside the residential curtilage of that dwellinghouse, the material change of use of that land to garaging purposes incidental to the enjoyment of the dwellinghouse was therefore lawful on the date of the application for a Lawful Development Certificate. Alternatively, if the building is within the residential curtilage of that dwelling, considering sections 55 and 57 of the Town and Country Planning Act 1990 (as amended), its use for any purpose incidental to the enjoyment of that dwellinghouse as such does not involve development requiring planning permission.

Signed

L Douglas

Inspector

Date: 22 September 2026

Reference: APP/M1595/X/24/3350783

First Schedule

Use of the existing outbuilding for garaging purposes incidental to the enjoyment of the dwellinghouse at Woodlands, South Avenue, Langdon Hills, Essex SS16 6JG

Second Schedule

Land at Woodlands, South Avenue, Langdon Hills, Essex SS16 6JG

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 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 22 September 2026

by L Douglas

Land at: **Woodlands, South Avenue, Langdon Hills, Essex SS16 6JG**

Reference: **APP/M1595/X/24/3350783**

Scale: Not to Scale

