



---

## Appeal Decisions

Site visit made on 17 August 2026

**by Thomas Shields DipURP, MA, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24<sup>th</sup> September 2026**

---

### **Appeal A Ref: APP/X0415/X/25/3363978**

#### **Southering, Deadhearn Lane, Chalfont St. Giles, Buckinghamshire, HP8 4HG**

- 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 Andrey Ryjenko against the decision of Buckinghamshire Council - East Area (Chiltern).
  - The application Ref: PL/25/0041/SA, dated 6 January 2025, was refused by notice dated 27 February 2025.
  - The application was made under section 192(1)(b) of the Act.
  - The development for which a LDC is sought is demolition of existing swimming pool and replacement with proposed outbuilding to be used as ancillary to main house.
- 

### **Appeal B Ref: APP/X0415/X/25/3363975**

#### **Southering, Deadhearn Lane, Chalfont St. Giles, Buckinghamshire, HP8 4HG**

- 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 Andrey Ryjenko against the decision of Buckinghamshire Council - East Area (Chiltern).
  - The application Ref: PL/25/0042/SA, dated 6 January 2025, was refused by notice dated 5 March 2025.
  - The application was made under section 192(1)(b) of the Act.
  - The development for which a certificate of lawful use or development is sought is proposed rear extension, floor plan redesign and all associated works.
- 

## **Preliminary Matters**

1. The burden of proof in demonstrating that proposed uses or operations are lawful falls to an appellant, with the standard for testing such evidence made on the balance of probabilities. The relevant date for determining lawfulness is the date of the applications. The planning merits of the proposed developments are not relevant to these LDC appeals and there are no planning applications before me to consider. My decisions are made solely based on matters of fact and law.

## **Main Issues**

2. The main issue in both appeals is whether the Council's decision to refuse a LDC was well founded.
3. There is no dispute that the proposed outbuilding in Appeal A and the proposed rear extension in Appeal B involve building operations, and thereby constitute “development” as defined by s55 of the Act requiring planning permission. As such, the main issue for each appeal turns on whether the proposed development would benefit from the planning permissions available under the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”).

## APPEAL A - OUTBUILDING

4. The existing swimming pool is open-air with brick enclosing walls to 3 sides. Even if, as suggested in the appellant's statement, the proposal incorporated some or all of the 3 existing walls, it would nonetheless result in an entirely new building.
5. The description of the proposal on the application form submitted to the Council is as set out in the banner heading above and relates to a new replacement fully constructed building with 4 walls and roof, and as clearly shown in the proposed application plans. I have dealt with the appeal on that basis.
6. Subject to size and other limitations Class E(a), Part 1, of Schedule 2 of the Order includes the provision within the curtilage of a dwellinghouse of any building *required for a purpose incidental to the enjoyment of the dwellinghouse*. The parties agree that the limitations (E.1 to E.3) to Class E(a) would be satisfied, and I come to the same conclusion. Consequently, the only point of dispute between the parties is whether the proposed outbuilding would be required for purposes incidental to the enjoyment of the dwellinghouse.
7. As shown on the submitted drawings the proposed rectangular outbuilding would have a floor area of approximately 98sqm and is marked as "Gym/Storage".
8. The Court judgement of *Emin v SSE and Mid-Sussex District Council* [1989] 58 P & CR 416 is relevant to consideration of this appeal. It established that the term "incidental" was held to connote an element of subordination in land-use terms in relation to the enjoyment of the dwellinghouse, and for the purposes of applying Class E the term "required" should be interpreted as "reasonably required" rather than the "unrestrained whim" of the occupier. Also, with regard to the nature and scale of the activities to be carried on, the size of a proposed building can be an important consideration, although not conclusive by itself.
9. The critical test to be applied is firstly; whether the use of the proposed outbuilding, in the context of the whole planning unit, is intended to be and would remain ancillary and subordinate to the main use of the property as a dwellinghouse, and secondly; whether the proposed outbuilding is "reasonably required" in order to accommodate the intended uses.
10. The parties refer to other planning application and appeal decisions. However, while the developments, circumstances, and other physical factors in those cases may hold some similarities with this appeal, they are not identical to those before me. If anything, as is clear from *Emin*, they simply collectively demonstrate that each case should be assessed individually on a fact and degree basis. That is the approach I take here.
11. The total area of internal floorspace of the outbuilding would be approximately the same size as the footprint of the original dwellinghouse, but smaller than the extended dwellinghouse as it exists now. In the context of the size of the existing dwelling, and the size of the overall planning unit, I consider the outbuilding is of a substantial size, although this is not a decisive factor by itself.
12. I am satisfied that the proposed use of the outbuilding for gymnasium and storage are uses that are capable of being ordinarily incidental and subordinate to the use of the main dwellinghouse.

13. Turning to whether the internal floor area is reasonably required for the specified purposes, it is undoubtedly a significant area for a home gymnasium. In this context I am not provided with the number of people living at the dwelling who would use the gymnasium, or what equipment might be provided for such use, or any layout showing how such a large space would be utilised for any such equipment and gymnasium use. Similarly, with regard to storage, no information is before me as to the type and quantity of items that would be stored in the outbuilding, or any demonstration of spatial requirement for such storage.
14. Although not referred to in the application, other indoor games are also referred to in the appellant's statement, including "*lawn tennis, handball and 5-a-side football*". However, I am unclear as to how lawn tennis would be an indoor activity in the building and why space for 5-a-side football is reasonably required in the context of the (unknown) number of occupiers of the dwellinghouse who would use it for such purposes.
15. Consequently, as to whether the floorspace is reasonably required in order to accommodate the stated activities, and without any convincing evidence to show otherwise, I find overall that the floor area is excessive and disproportionate in the context of this residential dwellinghouse.
16. Taking account of all the evidence before me, I find the proposed outbuilding to be of a substantial size which has not been adequately justified as being reasonably required for its intended purposes. As such, on a fact and degree basis, and on the balance of probabilities, I find it has not been demonstrated that the outbuilding would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse, and therefore would not be permitted development.
17. For these reasons Appeal A fails as set out in the formal decision below.

## **APPEAL B - EXTENSION**

18. Class A, Part 1 of Schedule 2 of the Order permits the enlargement of a dwellinghouse subject to specified limitations and conditions. Other than in respect of Condition A.3(a) there is no dispute between the parties that the proposed single storey extension would meet all other limitations and conditions of Class A. I also come to the same conclusion.
19. With regard to the proposed extension Condition A.3(a) requires:  
*"the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse"*.
20. The appellant does not deny that the brick-finished porch at the front of the dwellinghouse is contrary to the conditions attached to the planning permission which was granted for its construction, and there is no evidence before me to show that any breach of the conditions has become lawful.
21. Other than the relatively small existing front brick porch, the whole of the rest of the exterior elevations of this large extended dwellinghouse is finished in smooth cream render. The sizeable appeal extension spanning across just over half the width of the rear of the dwellinghouse is proposed to be constructed and finished in brick.

22. Even ignoring that the porch finish is contrary to what was permitted, it is in visual terms a very minor element of the entirety of the exterior finish of the dwellinghouse taken as a whole. The proposed rear extension would result in a substantial area of brick finish seen against the predominant use of cream render.
23. Taking account of all these factors I find as a matter of fact and degree that the materials proposed would not be of a similar visual appearance to the render finish in the dwellinghouse taken as a whole. The proposed extension would therefore not comply with condition A.3(a) of Class A and consequently would not be permitted development.
24. It should also be noted that even if the proposed extension were intended to be finished in matching or similar render to existing, it would still not be permitted development. This is because the dwellinghouse is located within a National Landscape<sup>1</sup> classed in the Order as Article 2(3) land. As such, the limitation at A.2 of Class A excludes development if it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, **render**, timber, plastic or tiles.
25. For these reasons Appeal B fails as set out in the formal decision below.

### **Formal Decision – Appeal A**

26. For the reasons given above, I conclude that the Council's refusal to grant a LDC in respect of the proposed demolition of existing swimming pool and replacement with proposed outbuilding to be used ancillary to the main house at Southering, Deadhearn Lane, Chalfont St. Giles, Buckinghamshire, was well-founded and that the appeal should fail. I exercise accordingly the powers transferred to me under section 195(3) of the Act.

### **Formal Decision - Appeal B**

27. For the reasons given above I conclude that the Council's refusal to grant a LDC in respect of the proposed rear extension, floor plan redesign and all associated works at Southering, Deadhearn Lane, Chalfont St. Giles, Buckinghamshire, was well-founded and that the appeal should fail. I exercise accordingly the powers transferred to me under section 195(3) of the Act.

*Thomas Shields*

INSPECTOR

---

<sup>1</sup> formerly known as Areas of Outstanding Natural Beauty