



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2025

Appeal Ref: APP/V2255/X/23/3329041

89 Victoria Street, Sheerness, Kent ME12 1YF

- 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 Wayne Brett against the decision of Swale Borough Council.
 - The application ref 23/502794/LAWPRO, dated 14 June 2023, was refused by notice dated 9 August 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is 'new outbuilding as workshop/summer house'.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is considered to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 88 Victoria Street is a two storey semi-detached dwelling with a rear garden. The proposed outbuilding would be located at the rear of the rear garden. Under Class E of Part 1 of Schedule 2 of the GPDO the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. The Council does not dispute that the proposed outbuilding would be built in the curtilage of the dwellinghouse and that it would meet the limitations in paragraph E.1. They claim, however, that the outbuilding would not be for a purpose incidental to the enjoyment of the dwellinghouse.

4. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose.

5. The Council have not commented on the provision or use of a workshop in the outbuilding; their concerns are with the summerhouse element. The plan of the

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proposed building submitted with the application shows there to be a sofa and a TV in the summerhouse. This is of no consequence; furniture and facilities are to be expected and the size and position of items in the room would change over time. The building does not include any sanitary facilities so use of the building would be reliant on such facilities being available in the dwellinghouse. It is reasonable for the occupants of the dwelling to desire garden accommodation where they can enjoy the outdoors and which would not constitute primary accommodation.

6. The proposed outbuilding would be commensurate in size to the dwellinghouse and would be necessary to accommodate the proposed use. It is for a purpose incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for new outbuilding as workshop/summer house at 89 Victoria Street, Sheerness, Kent was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

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Planning Inspectorate

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 14 June 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 27 October 2025

Reference: APP/V2255/X/23/3329041

First Schedule

New outbuilding as workshop/summer house

Second Schedule

Land at 89 Victoria Street, Sheerness, Kent ME12 1YF

IMPORTANT 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 operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 27 October 2025

by John Braithwaite

Land at 89 Victoria Street, Sheerness, Kent ME12 1YF

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Scale: Not to Scale

