

To: Babergh District Council

From: Yasemin Willis

Date: 16/10/2025

Dear Mr Steel

Subject Property Address: 30 Edies Lane, Leavenheath, CO6 4PA

Council Reference: EN/25/00533

We refer to the Planning Contravention Notice dated 9TH October 2025 relating to a single-storey building situated to the rear and right-hand side of our dwelling. We have attached to this letter a response to your questions raised in the PCN. However, I have provided a more detailed response on why we are of the opinion that the subject building does fall within our curtilage.

Description of the Works

The building construction is outlined in the previous Building Notice that the PCN referred to. To assist I have attached a plan with the location noted of the building in question. Whilst we were originally going to use this as a home office, we now intend to use it for domestic use ancillary and incidental to the enjoyment of our dwellinghouse and construction commenced approximately one month ago.

Curtilage and Site Context

The land on which the building sits forms an integral part of our domestic garden. It has been maintained as grassed garden land for over 30 years and is physically and functionally enclosed within the same boundary as the main dwelling. The land has never been in separate ownership or occupation, nor used for agricultural, commercial, or any non-domestic purpose.

The area has always been used for purposes incidental to the enjoyment of the dwelling, including lawn, planting, and recreational space. Boundary features, garden maintenance, and consistent use all demonstrate its long-standing inclusion within the curtilage of the dwellinghouse. I have attached images from Google Earth illustrating in 2005, 2015 and 2022 illustrating that the curtilage is not just where the owner has the building in question positioned but is as far back as where the other barn which is to the rear at the right of the property. This is coincidentally inline with the other neighbouring plot where they too have outbuildings.

Establishing curtilage is a factual determination based on the physical layout, ownership (past and present), and functional relationship of the land and building. Case law, particularly Attorney General ex rel Sutcliffe v Calderdale MBC, establishes these three tests, which are applied on a case-by-case basis.

The three tests for curtilage are;

- **Physical layout:**

The land must be physically connected to the main property. This can include being within a common enclosure like a wall or fence, or having a physical link such as a path.

In this case the land is physically connected.

- **Ownership:**

The land should have been in the same ownership, historically and presently, as the main property.

In this case the land has been in the same ownership for over 40 years.

- **Function/Use:**

The land must serve the "purpose of the house or building in some necessary or useful way," even if it's not physically enclosed. For a residential property, this often means the function of the land is domestic (e.g., garden, garage).

In this case it is illustrated that this land in question has been used as a garden.

Key case law

- **Attorney General ex rel Sutcliffe v Calderdale MBC**

(1982): Established the three-part test (physical layout, ownership, and function) for determining curtilage. It confirmed that curtilage is defined on a case-by-case basis and is not restricted by size.

- **R (Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs**

QB 103: Reaffirmed the "part and parcel" test, emphasizing that the relationship must be one of intimate association and that the determination is a matter of fact and degree.

- **Methuen-Campbell v Walters**

2 QB 525: This case provides a good example of what is not curtilage, as the court found a paddock was not part of the dwelling's curtilage because it was separated by a fence and gate and not "intimately associated" with the house.

- **Dyer v Dorset County Council [1989] 1 QB 346**

The court described curtilage as “a small area forming part and parcel with the house or building which it contains or to which it is attached.”

Whether land is within curtilage depends on proximity, ownership, usage, separation, and whether it serves domestic functions incidental to the house

Application to Our Site

On our case, the following facts (which we can document) indicate that the disputed land does satisfy the tests to be regarded as part of the curtilage of the dwelling:

Factor	Our position / evidence
Proximity / physical connection	The land runs immediately behind (or to the side of) the house, with no significant separation (e.g. fence / roadway) from the domestic garden.
Enclosure / boundaries	There is no physical separation and is maintained as part of the domestic garden, same maintenance regime as the rest of the garden. Our evidence of this is supported in the aerial pictures. This is further evidences (attached to this letter) by a WhatsApp message from our gardener a few weeks after we moved in asking if he should cut back the neighbour’s overhang in order be able to maintain the lawn.
Usage / function	Used for domestic / residential enjoyment: gardening and recreation, not used for agricultural or commercial use.
Ownership / title	The land has been in the ownership along with the house continuously.
Historical mapping	Historic aerial maps show the land has long been part of the garden.

Conclusion

There is no legal definition of curtilage, this is established by court cases and applying their established tests. The authority of the cases above, land that is intimately associated,

physically adjoining, functionally in domestic use, and within the same ownership as the house should be recognised as within the curtilage. Unless there is compelling contrary evidence (e.g. physical separation, usage that is clearly non-domestic, or that the land was historically severed), we respectfully maintain that the disputed area is within the curtilage of our dwelling and so permitted development rights should apply.

We therefore request that you either:

1. Provide, in writing, your detailed reasons and evidence for concluding that this land is outside the curtilage. Any evidence should be considered with the 3 tests used and established by case-law to determine curtilage. Or
2. Reconsider your position in light of the authorities above, and our site-specific facts.

I look forward to hearing from you after reviewing the contents of this letter and all of its attachments.

Kind regards.

Yours Sincerely

Yasemin Willis