



Appeal Decision

Site visit made on 2 September 2025

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/M5450/X/24/3354935

28 Harley Road, Harrow, HA1 4XG

- 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 Mr R Khanna against the decision of the Council of the London Borough of Harrow.
 - The application ref PL/1702/24, dated 21 June 2024, was refused by notice dated 16 August 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is New vehicular access and driveway parking area.
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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 proposed operation which is found to be lawful.

Application for costs

2. An application for an award of costs has been made by MR R Khanna against the Council of the London Borough of Harrow. This is the subject of a separate decision.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a certificate was well-founded.

Reasons

4. Section 192 of the Act sets out that if any person wishes to ascertain whether any operational development would be lawful, he can apply for a determination of this. An application would need to specify the land to which it relates, describe the operations, provide reasons for the operations' lawfulness and specify the date of the application.
5. The Appellant's case, which has to be made on the balance of probability, is that the creation of the new vehicular access and driveway parking area would be permitted development, as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').
6. Schedule 2, Part 1, Class F of the GPDO sets out that "Development consisting of—(a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or (b) the

replacement in whole or in part of such a surface” would be permitted development.

7. There are caveats to this, however, amongst which are: “a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse”.
8. Here, the area to be hard surfaced is between the principal elevation of the dwellinghouse and a highway and has an area in excess of 5 square metres. Therefore, to be permitted development, it has to be demonstrated that the development would accord with condition b) of Class F.
9. The Council’s assessment of the proposal is set out in its ‘Head of Planning Certificate Report’. Its Appraisal begins with a recitation of the Class F permitted development rights and follows with an assessment of compliance with its terms. This consists of a ‘Yes’, ‘No’ or ‘Not Applicable’ checklist followed by an explanation of the answer in the checklist.
10. In response to that part of Class F which relates to the area to be covered being 5 square metres or less, the report states “The approximate area of the proposed development is 14.95sqm. Proposed hard surfacing would therefore fail to meet this condition and could not be considered permitted development”. This is incorrect; where the area exceeds 5 square metres, one then has to analyse the materials proposed to be used and/or whether surface water run-off would be directed to a porous area within the curtilage.
11. In this regard, the Appellant submitted drawing HR PA 01A, entitled ‘Location plan and site plan’. This showed the area which is proposed to be used for parking annotated with “The entire site frontage is to be fully hard surfaced with permeable paving”.
12. Guidance on the interpretation of the terms of Class F can be found in the Government’s ‘Permitted development rights for householders - Technical Guidance’, September 2019. After rehearsing the terms of Class F it refers readers to another document, ‘Guidance on the permeable surfacing of front gardens’, September 2008, produced jointly with the Environment Agency.
13. Section 7 of the 2008 Guidance is a Glossary, in which definitions of relevant words and terms is given. A ‘porous surface’ is defined as being “a material that has a lot of fine holes throughout that allows water to pass through it eg gravel, asphalt and grassed surfaces”. A permeable surface is defined as “any surface that allows water to soak through it. The surface can be permeable or porous. The surface made of materials that that allow water to soak through eg porous concrete and asphalt, gravel or from impermeable materials laid with gaps between blocks”. From this, the words “porous” and “permeable” in respect of Class F are interchangeable.
14. Therefore, though the Appellant’s drawing uses the word permeable and Part F requires porous materials, I find that what is proposed would accord with Part F. As the development might be undertaken in any number of ways, it is not, to my

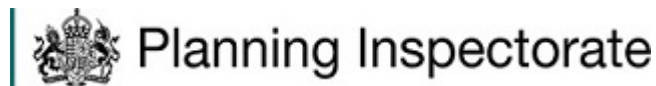
mind, necessary to supply details of materials and construction. Class F stipulates a particular approach, and the Appellant has said that that approach will be taken. It is for the Appellant to follow that approach when creating the hardstanding and, should this not be the case, the Council could take enforcement action against the development.

Conclusion

15. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of New vehicular access and driveway parking area is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Curnow

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 21 June 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed operational development would be permitted development, as defined in Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

R Curnow

Inspector

Date: 11 September 2025

Reference: APP/M5450/X/24/3354935

First Schedule

New vehicular access and driveway parking area

Second Schedule

Land at 28 Harley Road, HARROW, HA1 4XG

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 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 would have been 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 11 September 2025

by R Curnow

Land at: 28 Harley Road, HARROW, HA1 4XG

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Scale: Not to Scale

