
Appeal Decision

Site visit made on 17 September 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/W0530/X/24/3343914

49 Coxs End, Over, CAMBRIDGE, CB24 5TY

- 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 Stuart Croft against the decision of South Cambridgeshire District Council.
 - The application ref 24/00672/CL2PD, dated 23 February 2024, was refused by notice dated 2 May 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is a single storey side extension.
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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.

Reasons

2. An application for a Certificate of Lawfulness Use for a Proposed Use or Development (CLOPUD) is not an application for planning permission. As such my decision makes no comment on the planning merits of the development proposed. The main issue is whether the Council's decision to refuse to grant a CLOPUD was well-founded. The onus rests with an appellant to make their case, on the balance of probability.
3. To be more specific, the main issue in dispute is whether the proposal would amount to permitted development under the terms of Class A, Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). There is no dispute that the proposal would meet all the limitations and conditions of that Class, with the exception of paragraph A.1 (e)(ii). Under that paragraph development is not permitted if it would extend beyond a wall which fronts a highway and forms a side elevation of the original dwellinghouse.
4. The extension would clearly project from a side wall of the dwelling and the issue in dispute is whether it would front a highway. Whether that is the case will be a matter of fact and degree in any given case. The Technical Guidance on Permitted Development Rights for Householders (September 2019) provides some assistance in how the matter should be interpreted. It states:

The extent to which an elevation of a house fronts a highway will depend on factors such as:

(i) the angle between the elevation of the house and the highway. If that angle is more than 45 degrees, then the elevation will not normally be considered as fronting a highway;

(ii) the distance between the house and the highway - in cases where that distance is substantial, it is unlikely that a building can be said to front the highway. The same may be true where there is a significant intervening area of land in different ownership or use between the boundary of the curtilage of the house concerned and the highway.

5. The appeal property sits within a cul-de-sac of a residential estate. The highway curves around to reach the head of the cul-de-sac before the private driveways of a number of dwellings branch off to form a small close centred around those private drives. No.49 fronts onto that close, such that the side elevation faces towards the public highway. A patio, private driveway and garden separate the side wall from the highway, such that there is a substantial intervening distance. However, the size of the garden is by no means unusual and the distance from the house to the highway is not a decisive factor, of itself, in my view.

6. More pertinent is the intervening land between the side elevation and the highway, including the presence of the double garage associated with No.51. Due to the curvature of the highway and alignment of plots, the shared boundary between No.49 and No.51 is splayed. As a result, if one continued a straight line from the front and rear elevations of the appeal property, the garage belonging to No.51 sits between the house and the highway. The front corner of the dwelling broadly corresponds to the south-east corner of the neighbouring garage. To put that another way, if one stood in the highway perpendicular to the side wall of the dwelling, the garage of No.51 would be between you and the house. The element of highway beyond the garage is set at an angle to the side wall of the dwelling.

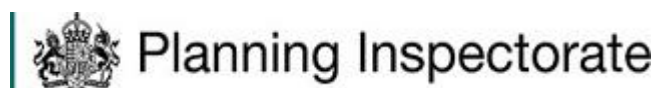
In my view, the relationship with the adjacent garage is a significant factor. When taken in the round, the intervening land, distance and curvature of the highway leads me to conclude that the side wall does not front a highway, in the terms of the GPDO. Consequently, the proposal would not contravene the requirements of paragraph A.1 (e)(ii) and would comply with the conditions and limitations of Class A, Part 1, Schedule 2 of the GPDO. As such, it would benefit from planning permission granted by the GPDO and would be lawful.

Conclusion

7. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a single storey side extension is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Chris Preston

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 23 February 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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:

At the time the application was made the proposed single storey side extension complied with the conditions and limitations of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2015) as amended (the GPDO) such that it benefitted from planning permission granted through Article 3(1) of the GPDO.

Signed

Chris Preston

Inspector

Date: **26 September 2025**

Reference: APP/W0530/X/24/3343914

First Schedule

Single Storey Side Extension

Second Schedule

Land at 49 Coxs End, CAMBRIDGE, CB24 5TY

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 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, 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 26 September 2025

by Chris Preston

Land at: 49 Coxs End, CAMBRIDGE, CB24 5TY

Reference: APP/W0530/X/24/3343914

Scale: Not to Scale

