



Appeal Decision

Site visit made on 21 October 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 November 2025

Appeal Ref: APP/C3105/X/24/3342942

Manor Cottage, Middleton Park, Middleton Stoney, Bicester OX25 4AQ

- 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 Richard Gibbs against the decision of Cherwell District Council.
 - The application ref 23/03078/CLUP, dated 6 November 2023, was refused by notice dated 28 December 2023.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which an LDC is sought is repositioning of existing "tarmac" driveway with a gravel driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the proposed development above is taken from the application form. The Council's decision gave an alternative description of "The provision of a new means of access to a highway and the formation of an area of hardstanding to form a driveway." This better represents what is shown as proposed on drawing Manor Cottage.22.1 and I shall determine the appeal on that understanding.

Main Issue

3. The main issue is whether the Council's refusal to issue an LDC was well founded. This will turn on whether the proposed development would have been permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order") if commenced on the date of the application.
4. The relevant provisions of the Order are enacted by Article 3 and Schedule 2, Part 1, Class F ("Class F") and Part 2, Class B ("Class B"):
 - Class F: 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 the replacement in whole or in part of such a surface.
 - Class B: The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in Schedule 2.
5. If the hard surface is permitted by Class F, it follows that the creation of the means of access is permitted by Class B, as it would clearly be required in connection with the provision of the hard surface.

Reasons

The hard surface

6. The hard surface would run roughly south from the road that leads off the B4030 and widen to incorporate an area for parking and turning vehicles at its far end, near the dwellinghouse. The matter in dispute is whether it would be provided within the curtilage of the dwellinghouse, and therefore whether the permission granted by Class F is applicable. If the permission does apply, it would be subject to limitations and conditions set out in paragraphs F.1. and F.2. of Class F.
7. Neither the Act nor the Order define 'curtilage' and there is no all-encompassing, authoritative definition of the term. Whether any land is within the curtilage of a dwellinghouse is therefore a matter of fact and degree in each case, having regard to relevant guidance and case law.
8. The technical guidance *Permitted development rights for householders* sets out the government's understanding of 'curtilage' when considering whether planning permission is granted by Article 3 and Schedule 2, Part 1 of the Order:

Land which forms part and parcel with the [dwelling]house. Usually it is the area of land within which the [dwelling]house sits, or to which it is attached, such as the garden, but for some [dwelling]houses, especially in the case of properties with large grounds, it may be a smaller area.

9. The dwellinghouse is part of a group of buildings that were originally stables and coach houses to Middleton Park but since converted to residential use. Details of the relevant planning permission for that change of use have not been provided, so it is unclear what land was associated with the dwellinghouse then. However, the known planning history indicates that Manor Cottage was formed through the merger of 2 dwellings about 50 years ago.
10. The earliest evidence of the layout of the dwellinghouse and its associated land since then is in an aerial image from 2006. This shows a strong, largely continuous boundary separating the land on which the hard standing would be provided ("the land") from the dwellinghouse. There is no evidence of any domestic activity on the land, which has the appearance of being part of the wider parkland setting.
11. Later aerial images show domestic activity on the land, with a collection of planting beds near the dwellinghouse from 2015 onward. Mown paths cross the land in aerial images from 2019 and 2022.
12. While this historic evidence of the association of the land and the dwellinghouse may assist in addressing the matter in dispute, it is not determinative. The decision must be made according to the status of the land when the application was made.
13. Although it is not the same as 'curtilage' it will help to consider whether the dwellinghouse and the land are a single planning unit. The planning unit is usually the unit of occupation unless some part is, as a matter of fact and degree, physically separate and distinct, and occupied for different and unrelated purposes.
14. The remaining parts of the historic walled boundary that was so clearly visible in the 2006 aerial image mean that the land exhibits signs of physical separation and distinction from the dwellinghouse. However, there are breaks in the wall near the dwellinghouse which, while relatively small in the context of the wall, are

functionally significant because they facilitate routine access to the land. The land is otherwise fully enclosed by estate fences with gates.

15. The part of the land nearest the dwellinghouse includes raised planting beds, a shed, a greenhouse and a chicken run, and is used as a kitchen garden, ancillary to and having a clear functional relationship with the dwellinghouse. A connection with the larger part of the land, sited further away from the dwellinghouse, is less clearly exhibited. However, there is no separation within the land itself, so it all forms a single planning unit with the dwellinghouse.
16. In terms of curtilage, the breaks in the wall are significant, making it permeable for access between the dwellinghouse and the kitchen garden. It is to be expected that such access will be frequent and regular, particularly during the growing and harvesting seasons. There is accordingly an intimate association between the dwellinghouse and that part of the land, which serves the purpose of the dwellinghouse in a necessary or reasonably useful way. This is clearly characteristic of curtilage.
17. The vehicle turning and parking area at the end of the hard surface would adjoin this part of the land and would thus be viewed as a domestic adjunct to the dwellinghouse. However, the hard surface would lead away from this area of intimate association and would, at its furthest extent, be distant from the dwellinghouse. At that point, and in views from the adjacent road, a relationship between the land and the dwellinghouse cannot be clearly perceived.
18. Unlike the kitchen garden area, the part of the land closer to the road does not exhibit signs of frequent activity associated with the dwellinghouse. There are mown paths through it and a rustic table and benches beneath the canopy of a tree but there is no indication of anything more than occasional use. The declarations made by the appellant and a neighbour describe the use of the land since 1984 but almost everything mentioned can be identified as pertaining to the kitchen garden and areas close to it. Other than mowing, there is no specific identification of activity or use of the larger part of the land. Both declarations refer to "the placement of garden furniture including outdoor dining facilities" but it is unclear where on the land that was, or whether it means the rustic table and benches.
19. The part of the hardstanding furthest from the dwellinghouse would therefore be provided on land that does not appear subordinate or ancillary to the dwellinghouse or intimately associated with it. When considering associated land, it is to be expected that intimacy will decrease as the distance from the dwellinghouse grows, although the degree of change will depend on the distance and, accordingly, the size of the land compared with the dwellinghouse.
20. The dwellinghouse has 4 bedrooms and a floor area of some 510 sqm. The main accommodation is 2-storey, but there is a relatively large footprint owing to a single-storey wing. Even accounting for the footprint, the total site area of 0.398 ha is large for a 4-bedroom house. The claimed curtilage is therefore not proportionate to the dwellinghouse, reflected in the relatively under-used nature of much of it.
21. Taking all the foregoing into consideration, I find that the hard standing would be provided, at least in part, on land that does not form part of the curtilage of the dwellinghouse. Accordingly, its provision is not permitted by Class F and an express grant of planning permission is required. It would therefore not have been lawful if begun on the date of the application.

22. In these circumstances, it is not necessary to consider the limitations and conditions set out in paragraphs F.1. and F.2. of Class F.

The means of access

23. Class B would only permit the formation, laying out and construction of the means of access if it were to facilitate development permitted by Class F. As that would not be the case, the formation of the proposed new means of access is not permitted by Class B and would not have been lawful if begun on the date of the application.

Conclusion

24. For the reasons given above, I conclude that the Council's refusal to grant an LDC for the provision of a new means of access to a highway and the formation of an area of hardstanding to form a driveway is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Mark Harbottle

INSPECTOR