



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal Ref: APP/E5330/X/24/3355635

Part Highway opposite Greenwich Tavern, King William Walk, Greenwich, London SE10 9JH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Paul St. Hilaire against Royal Borough of Greenwich.
 - The application ref 24/2414/CP is dated 4 September 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is 'sell ice cream from an electric, properly taxed and serviced, ULEZ compliant motor vehicle stopping on the highway (not causing an obstruction to the road network) for no more than 28 days'.
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Decision

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

Preliminary Matters

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

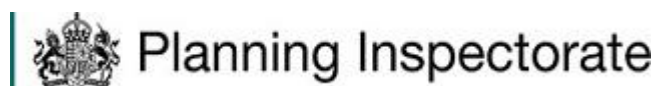
Reasons

3. The Council concluded, in their appeal statement, that the proposed use "...would constitute a material change of use of land...". A material change in the use of land constitutes, under Section 55 of the Act, 'development'. However, Class B of Part 4 of Schedule 2 of the GPDO states that the use of any land for any purpose for not more than 28 days in total in any calendar year is permitted development. The proposed use, as agreed between the parties, would be "...for no more than 28 days" but Class B requires that the 28 days must be "...in total in any calendar year...".
4. The Council concluded that planning permission is not required for the proposed use because it is development permitted under Class B of Part 4 of Schedule 2 of the GPDO. There is no reason to disagree, in principle, with this conclusion but the proposed use must be amended by the addition of 'in total in any calendar year' for the use to be development permitted under Class B of Part 4 of Schedule 2 of the GPDO.
5. For the reasons given above, and on all evidence now available, had the Council refused to grant an LDC for 'sell ice cream from an electric, properly taxed and serviced, ULEZ compliant motor vehicle stopping on the highway (not causing an

obstruction to the road network) for no more than 28 days in total in any calendar year' at Part Highway opposite Greenwich Tavern, King William Walk, London that refusal would not have been 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



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 5 September 2024 the use 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use is development permitted under Class B of Part 4 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 26 January 2026

Reference: APP/E5330/X/24/3355635

First Schedule

Sell ice cream from an electric, properly taxed and serviced, ULEZ compliant motor vehicle stopping on the highway (not causing an obstruction to the road network) for no more than 28 days in total in a calendar year

Second Schedule

Land at Part Highway opposite Greenwich Tavern, King William Walk, London SE10 9JH

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 use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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 January 2026

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Scale: Not to Scale

