



Appeal Decision

Site visit made on 12 January 2026

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 February 2026

Appeal Ref: APP/N4720/X/25/3364431

6 Wolley Court, New Farnley, Leeds LS12 5QW

- 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 Mrs Victoria Whitfield against the decision of Leeds City Council.
 - The application ref 25/00711/CLP, dated 17 February 2025, was refused by notice dated 15 April 2025.
 - The application was made under section 192(1)(a) of the Act.
 - The use for which an LDC is sought is use of an ancillary outbuilding as a hairdressers.
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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 Matter

2. The application form states that the proposed use is a use within Class E(c)(ii) of Schedule 2, Part A, to the Town and Country Planning (Use Classes) Order 1987 (as amended). The description given above is taken from the Council’s decision notice, which the appellant confirms is agreed.

Main Issue

3. The main issue is whether the Council’s decision to refuse to issue an LDC was well-founded. This will turn on whether the use of the outbuilding as a hairdressers as proposed would result in a material change in the use of the planning unit, such that planning permission is required. Whether such permission should be granted is not within the scope of this appeal.

Reasons

4. The Council correctly states that it is not possible to regulate a proposed use when granting an LDC, unlike when conditions are imposed on a grant of planning permission. However, an LDC must specify precisely what is or is not certified as lawful. Precision is vital if an LDC is granted, so there is no room for doubt about what was lawful at a particular date, against which any subsequent change may be assessed. It should therefore not be assumed that an LDC can apply to a use or operation that is different from what it describes.
5. In this case, the proposed use of the outbuilding as a hairdressers is between 09:00 and 15:00, with 2 to 4 clients visiting on each of 3 days per week, and with only one person (the appellant) working.

6. Under section 191(2) of the Act a use may be found lawful if no enforcement action may be taken in respect of it and it does not contravene any requirement of an enforcement notice then in force. There is no relevant enforcement notice in effect, so it only remains to be determined whether it would have been possible to take enforcement action against the use of the outbuilding as a hairdressers on the application date. Whether enforcement action would have been expedient is not a matter to be considered in this appeal.
7. When determining whether a material change of use would occur, it is necessary to identify the planning unit which might be affected. This is usually the unit of occupation, in this case the house and its gardens, unless some part is, as a matter of fact and degree, physically separate and distinct, and occupied for different and unrelated purposes.
8. The outbuilding is within a small, enclosed back garden accessed by passing through the house. Accordingly, the use does not take place on land that is physically separate or distinct from the rest of the property. As the proposed hairdressers use would be carried out 3 days each week, the outbuilding would be available for purposes incidental to the residential occupation of the house at other times. Taking these factors into consideration, the planning unit is the unit of occupation, meaning the house and its front and back gardens.
9. Whether the proposed use described by the appellant is lawful will therefore turn on whether the definable character of the planning unit would be materially different from solely residential use. If it is not, any change in the use of the property would not be material, so development requiring planning permission would not occur and it would not be possible to take enforcement action.
10. Working from home has become relatively commonplace and while a person's employment may not be incidental to their residential occupation, it is unlikely to be of consequence, depending on the nature of the activity involved. There is nothing to indicate that the described hairdressing activity would be detectable outside of the outbuilding by reason of noise, fumes or any other matter. It would therefore not materially alter the character of the use of the property in that respect.
11. Wolley Court is a cul-de-sac, and the property is one of 6 houses that can only be accessed by means of a footway leading off the turning head. Clients attending appointments on the 3 days when hairdressing would take place would therefore make their final approach on foot. Their comings and goings may, however, be noticed and need to be compared against a baseline of the footfall of the appellant and her household. Viewed from that perspective, I do not consider it likely that the arrival and departure of up to 4 people in a day would materially alter the character of the use of the property.
12. Considering the presented evidence and the description of the proposed use, I do not find that there would be a material change in the definable character of the use of the planning unit. Accordingly, the change in its use would not be material, development requiring planning permission would not occur and it would not be possible to take enforcement action.

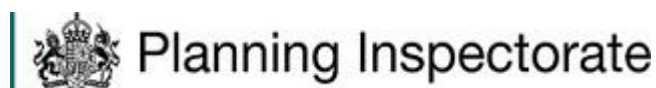
Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant an LDC for use of an ancillary outbuilding as a hairdressers 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 Act.

Mark Harbottle

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 17 February 2025 the use 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:

The described use of the outbuilding as a hairdressers would not have constituted a material change in the definable character of the use of the property. A material change of use requiring planning permission would therefore not have occurred, and enforcement action could not have been taken.

Signed

Mark Harbottle

Inspector

Date: 05 February 2026

Reference: APP/N4720/X/25/3364431

First Schedule

Use of the outbuilding as a hairdressers by a member of the resident household between 09:00 and 15:00 on 3 days of the week with no more than 4 clients per day.

Second Schedule

6 Wolley Court, Leeds LS12 5QW

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 this decision dated: 05 February 2026

by Mark Harbottle

Land at: 6 Wolley Court, Leeds LS12 5QW

Reference: APP/N4720/X/25/3364431

Scale: Not to Scale

