



Appeal Decision

Site visit made on 20 January 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 February 2026

Appeal Ref: APP/R0660/X/25/3374247

Seven Oaks Hough Lane, Alderley Edge, Cheshire East SK9 7JE

- 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 Richard Brindley against the decision of Cheshire East Council.
 - The application ref 24/2693M, dated 23 July 2024, was refused by notice dated 23 April 2025.
 - 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 the construction of a replacement detached garage with store and formation of an associated area of hardstanding.
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Decision

1. The appeal is dismissed in so far as it relates to the replacement detached garage and store. The appeal is allowed in so far as it relates to area of hardstanding and attached to this decision is a certificate of lawful use or development describing the proposed operations which are found to be lawful.

Main Issue

2. Section 192(2) of the Town and Country Planning Act 1990, as amended (the Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or began at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal, and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.

Reasons

3. The proposed development is a single storey detached building for use as a garage with store, with associated hardstanding on land at Seven Oaks, Hough Lane. The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure, is permitted by Class E, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) subject to the limitations set out in E.1, E.2 and E.3. However, whilst the Council does not dispute that the garage/store is required for a purpose incidental to the enjoyment of the dwellinghouse, they consider that the building does not benefit from the aforementioned rights, as the

proposed building would not in their view be wholly within the curtilage of Seven Oaks.

4. The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such, is permitted by Class F, Part 1, Schedule 2, Article 3 of the GPDO subject to the limitations set out in F.1 and F.2. It is the Council's view that the hardstanding proposed would not serve a purpose incidental to the enjoyment of the dwellinghouse as such, and does not therefore benefit from the aforementioned rights.

Proposed Garage/Store

5. Curtilage defines an area of land in relation to a building and not a use of land. There is no all-encompassing, authoritative definition of the term curtilage. The Technical Guidance¹ defines "curtilage" for Part 1 purposes as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.
6. Generally, to fall within the curtilage of a building, it is enough that the land serves the purpose of the building in some reasonably necessary or useful manner, even though it need not be marked off or enclosed in any way. However, other considerations, such as past and present relationships of ownership and function, must be taken into account. In the absence of any statutory or authoritative definition, it was held in *Dyer*² that the term bears its restricted and established meaning, a small area forming part and parcel with the house or building which it contained or to which it was attached.
7. I have had regard to all the relevant authorities, including *Challenge Fencing Ltd*³ which reviews and confirms the legal approach to the decision as to what is the curtilage of a building. I have also had regard to the Council's reference to *Burford*⁴, where it was reaffirmed that there are three factors that should be taken into account concerning the determination of the curtilage of a building: 1. The physical layout of the building and attached land; 2. The ownership, past and present; and 3. The use or function, past and present.
8. Having regard to all the authorities it is apparent that whether something falls within a 'curtilage' is a question of fact and degree and, thus, primarily a matter for the decision maker. What is apparent is that the relevant date on which to determine the extent of the curtilage is the date of the application for the LDC, but this involves considering both the past history of the land and how it is laid out and used at the time of the application. It is possible for the extent of the curtilage to change over time.
9. The dwelling known as Seven Oaks is a substantial detached dwelling constructed in the 1930s and more recently extended. It is situated within established mature gardens, set back from the road and accessed by a driveway. The dwelling's original garden is predominantly laid as lawn with mature hedgerows, trees and shrub planting along its front boundary and side boundaries. An existing detached garage/store is situated within the original garden's northeastern corner and a

¹ Permitted Development Rights for Householders: Technical Guidance, September 2019

² *Dyer v Dorset CC* [1988] 3 WLR 321.

³ *Challenge Fencing Ltd & SSHCLG & Elmbridge BC* [2019] EWHC 553 (Admin)

⁴ *Burford v Secretary of State for Communities and Local Government & Anor* [2017] EWHC 1493 (Admin)

narrow-flagged path links it to the dwelling. This original garden has a close association with the dwelling in terms of its function as a formal garden and it is physically and visually well related to the dwelling.

10. The appellant purchased the property in 2009, including land to the north of the dwelling's original garden which it is understood has been associated with Seven Oaks since at least 1977. That land to the north has been used lawfully as residential garden since 2012 when a LDC was granted for its residential use. The appellant advises that his family utilise this less formal part of their garden for high energy activities, for example, by his children for quad biking and ball games. Photographs of such activities, including the landing of a small helicopter, have been submitted in support of the appeal.
11. The northern garden area is both visually and physically separated from the dwelling and its original garden by mature shrubs/hedgerow and trees. Although two small and established breaks in that hedge/shrub planting provide a physical connection between these two garden areas, the northern garden does not have a close or intimate relationship with the original dwelling. The established planting along the intervening boundary forms part of a raised bank and the northern garden sits at a lower level. The banking and change in level contribute to the northern garden's physical and visual separation from Seven Oaks. That separation is further endorsed by the northern garden having separate vehicular access onto Hough Lane, which is defined by a traditional five bar timber "field" gate and a pedestrian gateway.
12. Although, the northern garden is now in residential use, by reason of its scale, location and physical separation, I do not consider it to have an intimate association with the dwellinghouse. I understand that this land functions as a garden, however, it is remote from the dwellinghouse and has a separate means of vehicular access to it. It is not an area which I consider to contain the dwellinghouse, or on which the house sits, but more an adjunct.
13. I conclude, from the evidence before me and observations on my site visit that, as a matter of fact and degree, the land where the proposed garage/store would be sited is not wholly within the curtilage of the dwellinghouse for Part 1 purposes.

Hardstanding

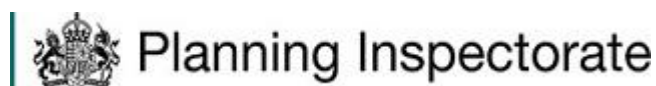
14. There is no dispute between the parties that the proposed area of hardstanding would be contained within the curtilage of the dwellinghouse. However, the Council consider that as the hardstanding would be associated with the proposed garage/store that is not permitted development, then the hardstanding is not required for a purpose incidental to the dwellinghouse.
15. I recognise that the proposed hardstanding has been designed to facilitate and be associated with the proposed garage/store. However, it could also serve and be associated with the existing detached garage on the site. It would therefore be for a purpose incidental to the enjoyment of the dwellinghouse and thus falls within the provisions of Class F. The appellant's drawing states that the hard surface area would incorporate a sustainable drainage system and would thus comply with the conditions set out in Class F.2. The limitations of Class F.1 are not applicable to this development.

Conclusion

16. For the reasons given above I conclude, on the evidence now available, that (a) the Council's refusal to grant a certificate of lawful use or development in respect of the proposed area of hard standing is not well-founded and the appeal should succeed for that part of the development only; and (b) the Council's refusal to grant a certificate of lawful use or development in respect of the replacement detached garage and store is well-founded and the appeal for that part of the development should fail. I will exercise the powers transferred to me under section 195(2) and 195(3) of the 1990 Act as amended.

Elizabeth Pleasant

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 July 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in yellow and cross-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 construction of hardstanding is “permitted development” falling within Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, for which planning permission is granted by Article 3(1) of that Order.

Signed

Elizabeth Pleasant

Inspector

Dated 18 February 2026

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First Schedule

Construction of an area of hardstanding (as shown on Site Plan, Drawing No TR.2 A)

Second Schedule

Land at Seven Oaks, Hough Lane, Alderley Edge SK9 7JE

IMPORTANT NOTES

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 18 February 2026

by Elizabeth Pleasant

Land at: Seven Oaks Hough Lane, Alderley Edge, SK9 7JE

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Scale: Not to Scale

