



Appeal Decision

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2026

Appeal Ref: APP/Q1153/X/25/3373361

Tor View, Pool Hill, Bridestowe, Okehampton, Devon EX20 4EW

- 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 Mrs Wendy White against the decision of West Devon Borough Council.
 - The application ref 1308/25/CLE, dated 29 April 2025, was refused by notice dated 24 June 2025.
 - The application was made under section 191(1)(a) and 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
 - The development and failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is described as: Construction of wall within the garage that prevents it from being used for parking (breach of condition); Construction of outbuilding within the rear garden; Construction of rear extension.
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Summary of Decision

1. The appeal is allowed in part and dismissed in part, in the terms set out below in the Formal Decision.

Preliminary Matter

2. The appellant accepts that it is not essential for me to enter the site to check measurements or other relevant facts. On that basis, and given the matters in dispute, injustice does not arise from an assessment on the written evidence only.

Main Issue

3. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

4. The site relates to a detached dwelling accessed from Pool Hill. In matters such as this the onus is firmly on the appellant to demonstrate their case on the balance of probabilities that the construction of a rear extension and outbuilding as well as the construction of a wall within the garage that prevents its use for parking, are lawful owing to the passage of time. My assessment is therefore fact specific, based upon the evidence before me.
5. The appellant has provided an executed statutory declaration which declares, amongst other things, that the rear extension was completed in April 2020 and the outbuilding completed in August 2019. These dates are not disputed by the Council.
6. Given the dates of substantial completion, and that these developments relate to building operations, the period for immunity from enforcement action would have been 4 years. However, condition 5 of planning permission reference F.3.6.2013/93/10130/001 (the permission) removed permitted development rights

for extensions and outbuildings, amongst other things, when planning permission was granted for the erection of the dwelling, in July 1993.

7. There is very little evidence from the appellant to demonstrate on the balance of probabilities that the extension and outbuilding would have otherwise not satisfied the requirements of the relevant permitted development rights. That being so, they are accordingly caught by condition 5 of the permission and therefore the relevant period for immunity from enforcement action would be 10 years pursuant to s171B(3) of the Act. This is because, even though operational development, the extension and outbuilding amount to a breach of condition and are therefore treated as *'any other breach of planning control'*.
8. Given the dates when the extension and outbuilding were substantially completed, a relevant period of 10 years prior to the appeal application has been not demonstrated.
9. The wall within the garage then relates to internal works which would therefore not amount to development for the purposes of s55 of the Act. It would however amount to a breach of condition 6 of the permission which required that it otherwise be kept permanently available for the parking of a private motor vehicle, as the wall reduced the size of the garage so the majority could be used as a gym or utility room. The date for when this work was carried out is then not disputed, being declared as March 2014, and thus a relevant period of 10 years prior to the appeal application has been demonstrated pursuant to s171B(3) of the Act. The Council has therefore suggested I could certify this if I consider it appropriate, which I do.
10. As a matter of fact and degree, based upon the evidence before me, the appellant has therefore only discharged the necessary burden of proof to demonstrate their case on the balance of probabilities in respect of the breach of condition 6 of the permission.

Conclusion

11. For the reasons given above I conclude that the Council's decision was otherwise well-founded and that the remainder of the appeal should fail. I will exercise accordingly the powers transferred to me in sections 195(2) and 195(3) of the 1990 Act as amended.

Formal Decision

12. The appeal is allowed in-part and dismissed in-part and attached to this decision is a certificate of lawfulness describing the matter constituting a failure to comply with a condition which is considered to be lawful.

Paul T Hocking

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 29 April 2025 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has demonstrated their case on the balance of probabilities in respect of the breach of condition 6 of planning permission F.3.6.2013/93/10130/001.

Signed

Paul T Hocking

Inspector

Date: 26 February 2026

Reference: APP/Q1153/X/25/3373361

First Schedule

Construction of wall within the garage that prevents it from being used for parking, in breach of condition 6 of planning permission F.3.6.2013/93/10130/001, dated 30 July 1993.

Second Schedule

Land at: Tor View, Pool Hill, Bridestowe, Okehampton, Devon EX20 4EW

IMPORTANT NOTES – SEE OVER

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 matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, 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 or 187A of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter 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 February 2026

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Scale: Not to Scale

