



Appeal Decision

Site visit made on 12 March 2026

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Appeal A Ref: APP/H5960/X/25/3364248

Studio 66, 67A Medfield Street, Wandsworth, London SW15 4JY

- 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.
 - The appeal is made by Mr Glen Tomlin against the decision of the Council of the London Borough of Wandsworth.
 - The application ref 2025/0141, dated 17 January 2025, was refused by notice dated 28 March 2025.
 - The application was made under section 191(1)(b) 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 erection of a car port in accordance with planning permission W/99/0121.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Procedural matters

2. The appeal relates to the refusal of an application for a certificate of lawful use or development ("LDC"). The application was made under S191 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"). S191(1) provides, so far as relevant to this appeal, that if any person wishes to ascertain whether any operations which may have been carried out in, on, over or under land are lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the operations.
3. The application form did not specify a use or building works for which an LDC was sought. Instead, it referred to a covering letter. That covering letter runs to some 8 pages. At its outset, it states that an LDC is sought 'to establish lawful implementation of planning permission W/99/0121'. That is not an existing operation, nor anything else falling within the provisions of S191(1). Moreover, there is no dispute between the main parties that planning permission W/99/0121, for 'alterations and enlargement of building at rear of site in connection with use of premises as an artist's studio' ("the Permission") has been lawfully implemented.
4. The covering letter goes on to say that the LDC also seeks to establish the extent of the planning approval, the approved drawings, and in particular, the inclusion of a car port, which is considered to have been approved as part of the development but has not yet been erected. Indeed, in correspondence with the parties, I am satisfied that the crux of the dispute is whether a car port was approved and could be built pursuant to the Permission.

5. The provisions of S191 clearly relate to existing operations. Thus, an LDC under that section can only certify that existing operations are lawful. An LDC could, therefore, be issued to confirm that the alterations and enlargement of the building at the rear of the site were lawful, having been built in accordance with the Permission. However, there is no provision in S191 to 'establish the extent of the planning approval'. That is neither existing, nor a specified use or operation.
6. Nevertheless, the provisions of S192 of the 1990 Act could be used to ascertain whether any operations proposed to be carried out in, on, over or under land would be lawful. Given the crux of the dispute, and in consideration of all the appeal evidence, it is clear that the appellant was actually applying to the Council to ascertain whether the construction of a car port on the land would be lawful. The basis of that claim is that it was shown on some of the plans associated with the application for the Permission.
7. In response to correspondence from me, the appellant is satisfied that the appeal could be considered on the basis that it was seeking to ascertain whether a car port *could* be erected pursuant to the Permission, under S192. The Council believes such an approach could result in injustice, as that was not the application made.
8. Given the way that the application is described, a car port is not precisely set out as the proposed operation. Nevertheless, it is clearly the way that the Council approached the application and appeal. Indeed, in the refusal notice, the application was described as

Certificate of lawfulness to establish that works approved under planning permission ref. W/99/0121 (Alterations and enlargement of building at rear of site in connection with use of premises as an artist's studio) have commenced within the statutory timeframe and therefore the erection of the car port shown on the approved drawings can be lawfully implemented (my emphasis).

9. This clearly indicates that the ability to erect the car port was part of the question that the Council put its mind to. The discussion throughout the officer's report and appeal documents is also focussed on this question. Although, the application was made under the guise of the provisions of S191, the relevant judgement could not have been made under that section, and it does not appear to have been properly considered in that way by either party. Indeed, the Council's response to my correspondence invites me to opine on whether or not 'a car port should be considered as having been approved ... and can lawfully be implemented' (my emphasis). That is a question that can only be answered under the provisions of S192.
10. For the reasons given, I find that no injustice would arise if I were to consider the appeal as seeking to ascertain whether a proposed operation to erect a car port (pursuant to the Permission) would be lawful under the provisions of S192. That is, ultimately, the question that both parties have dealt with in evidence and, therefore, this is the basis on which my decision now proceeds.

Reasons

11. The planning permission lists, on its face, 4 drawing numbers – MED 05B; 06; 07 and 09. Neither party has produced these drawings, and the Council has confirmed that they are not in its archive. The appellant has produced drawings

MED/01 showing the (then) existing site layout; a poor-quality reproduction of a drawing with an illegible drawing number, showing the artist's studio building; and drawing MED/04b.

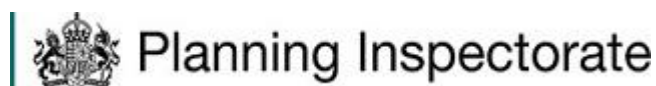
12. Drawing MED/04b includes a site layout, sections, front, rear, and garage elevations. It shows an open car port. It is not listed on the decision notice, from which one must conclude it was not one of the drawings ultimately permitted. In the absence of a complete set of the listed drawings, the Council's quest for proof beyond reasonable doubt as to what was permitted cannot be achieved. Nevertheless, while the onus of proof rests with the appellant, the standard of proof required in a case such as this, is the balance of probabilities.
13. The Permission does not include a car port within the description of development. However, it was also not described on the associated application form, yet the Council accepts that drawing MED/04b was originally submitted with the application for the Permission, and that the proposal initially included a car port as shown on that drawing.
14. The proposal was amended at some point, before it was finally permitted. This is evident from the officer's report that describes various amendments, being a change to the ridge height, size of mezzanine level, and roof cladding material. Those changes might be described on the poor-quality drawing of the studio building, on which somebody has written 'amended', and thus that drawing was probably one of those ultimately permitted.
15. The poor-quality drawing does not show the car port. There were 4 drawings listed on the decision notice, probably only one survives, and it is impossible, on the evidence before me, to speculate as to what the others might have shown. However, given that there were three other drawings, it seems unlikely that this poor-quality drawing, showing only the studio building, fully superseded drawing MED/04b, which showed the entire site layout. The drawings do not show the same things.
16. Before describing the amendments, the officer's report for the Permission sets out details of the proposal. It includes the retention of walls, various works to the building, removal of a structure over the access way, erection of gates and erection of a 2.3m high flat roofed car port. That is a clear indication that a car port was proposed, which would accord with drawing MED/04b.
17. There is no subsequent mention of the car port in the officer's report. The Council find this surprising, given that it might have had an effect on the character and appearance of the area, or weighed in the balance when considering the effect of the development on the neighbours' living conditions.
18. Given the lack of analysis of the car port in the officer's report, the Council then speculates that it was probably removed from the scheme when it was amended. It is suggested that it only remains in describing the details of the proposal because the planning officer forgot to delete it. For that to be correct, the officer would have needed to have started writing the report before the amendments were received, and then failed to check what was being written and presented to the public committee meeting.
19. That scenario is a theoretically possible one, however, there is simply no evidence to support it. The absence of evidence, in the form of at least 3 missing drawings,

or lack of mention of the car port in the planning officer's analysis of the proposal is not evidence that it was removed from the scheme. Importantly, a car port was, evidently, originally proposed. It is described as part of the proposal in the officer's report and its removal is not detailed as one of the amendments.

20. For these reasons, I find it more likely than not that a car port did form part of the Permission. In the absence of any evidence for that part of the scheme being amended, I also find that it is more likely than not that it took the form of the car port shown on drawing MED/04b.
21. Therefore, I conclude that the Council's refusal to grant an LDC 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 1990 Act (as amended).

M Bale

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 January 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on Plan 1 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:

On the balance of probabilities, the car port shown on drawing MED/04b was permitted pursuant to planning permission W/99/0121. That planning permission was lawfully commenced and remains extant.

Signed

M Bale

INSPECTOR

Date: **31 March 2026**

Reference: APP/H5960/X/25/3364248

First Schedule

Erection of a car port shown on drawing MED/04b attached as Plan 2 to this certificate.

Second Schedule

Land at 67 Medfield Street, Wandsworth, London SW15 4JY

IMPORTANT NOTES – SEE OVER

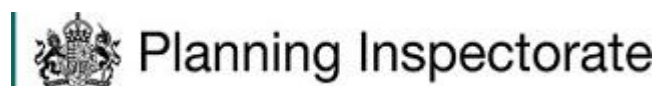
NOTES

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 1

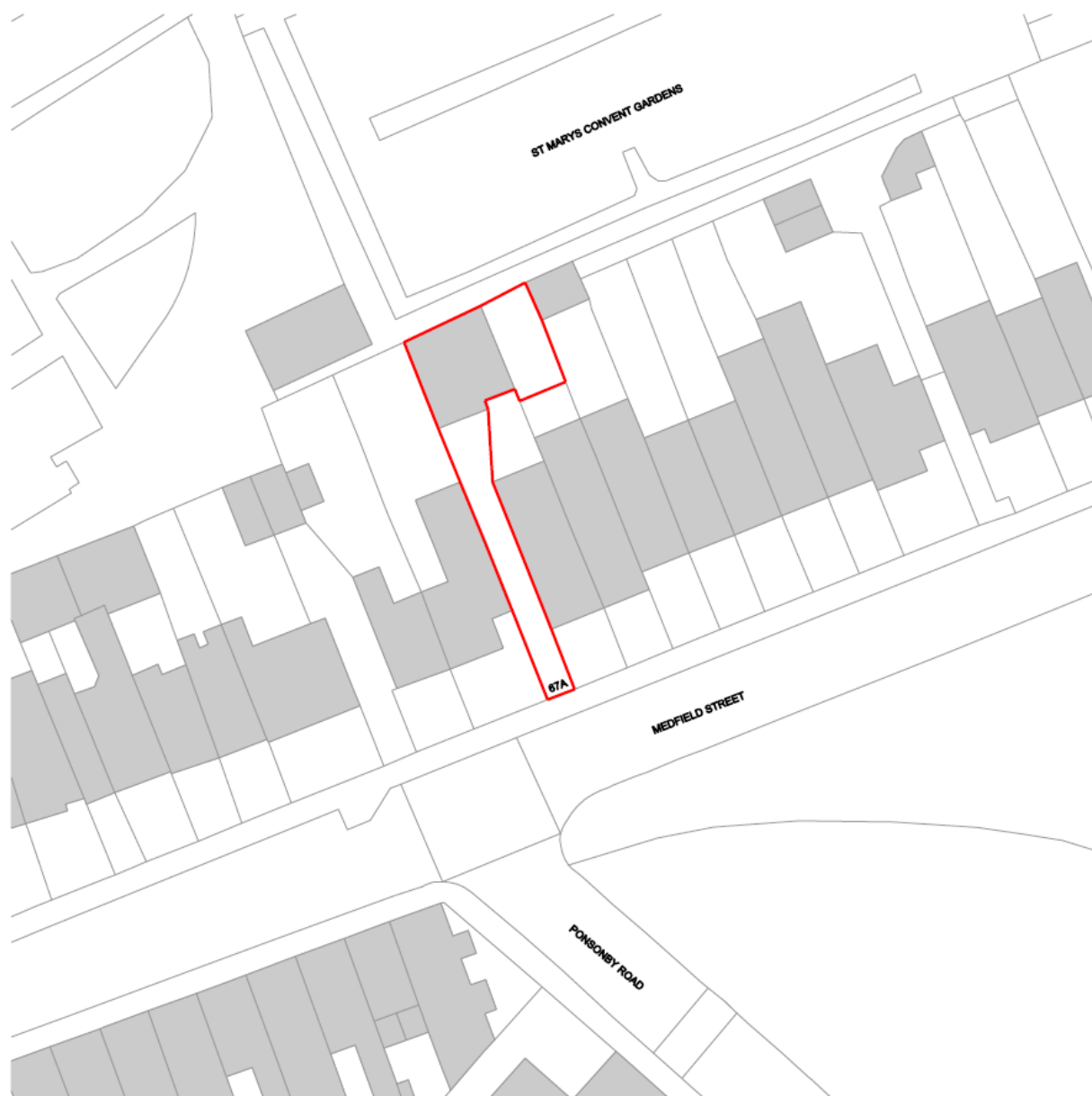
This is Plan 1 referred to in the Lawful Development Certificate dated: 31 March 2026

by M Bale

Land at: 67 Medfield Street, Wandsworth, London SW15 4JY

Reference: APP/H5960/X/25/3364248

Scale: Not to Scale



Scale: Not to Scale

