



Appeal Decision

Site visit made on 2 June 2026

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 05 June 2026

Appeal Ref: APP/C1625/X/25/3358632

18 Woodside, Stroud, Gloucestershire GL5 1PW

- 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 Dr Jonathan Code against the decision of Stroud District Council.
 - The application ref S.24/1430/CPE, dated 7 August 2024, was refused by notice dated 27 September 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is the use of land as garden land by Applicant for a period of greater than 10 years.
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Decision

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

Preliminary Matters

2. Section 191(2) of the Town and Country Planning Act 1990 (the Act) provides that a use or operation is lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason). Section 171B sets out the applicable time limits. For a material change of use, the relevant period is 10 years.
3. In this type of appeal, the onus of proof is firmly upon the appellant. The relevant test of the evidence on matters such as an LDC application is the balance of probabilities. The appellant's evidence does not need to be corroborated by independent evidence in order to be accepted. If there is no evidence to contradict or otherwise make the appellant's version of events less than probable, and the evidence is sufficiently precise and unambiguous, there is no good reason to refuse the certificate.
4. The planning merits of the use are not relevant, and they are not an issue for me to consider in the context of an appeal under section 195 of the Act. I must examine the submitted factual evidence, the history and planning status of the site in question and apply relevant law or judicial authority to the circumstances of this case.

Main Issue

5. The main issue is whether the council's refusal to grant an LDC was well-founded. This turns on whether the appellant can show, on the balance of probabilities, that the land has been used as garden for a continuous period of at least 10 years prior

to the date of the application, without material interruption or intervening uses, such that the use is lawful under section 191(2) of the Act.

Reasons

6. The appeal relates to a semi-detached property on the south side of a residential road. The land which is the subject of the LDC appeal is roughly trapezoidal in shape with an area of approximately 140m². It lies at the end of the rear garden. Both the garden and the subject land slope upwards from the rear of the house. Beyond this, the appellant's land extends briefly into an area of woodland. This section does not form part of the LDC appeal.
7. The appellant's case is that the appeal land has formed part of and has been used as domestic garden since at least 2004. In support of this, the appellant has submitted notarised statutory declarations from themselves and family members, together with declarations from neighbours of the adjoining land, and a former neighbour. The neighbouring evidence covers occupation periods from 2007 to 2019, and from 2019 to the time of the application.
8. The statutory declarations confirm continuous occupation of the dwelling by the appellant and their family since March 2004 and describe the use of the appeal land as part of the domestic garden throughout that time. The evidence indicates that during that time the appeal land has been used as part of the garden for a range of activities typically associated with residential enjoyment, including composting, storage, bonfires, informal recreation, children's play and social activities. This use is claimed to be in a manner similar to the way in which the previous owners utilised the space.
9. The evidence also describes how, between approximately 2009 and 2013, the area was cleared and used for, among other things, home-based learning activities. From around 2012, a swing was installed and a fire circle and seating area was established, providing space for family recreation and entertaining. In addition to these uses, the land has also been used for growing plants, and for preparation and storage of firewood. More recent changes, including the excavation of the former fire circle, removal of stored materials, and the siting of a timber cabin for use as a home office, reflect an evolution in the manner in which the land is used rather than any fundamental change in its overall function as part of the domestic garden.
10. At my visit, I observed that the appeal land has a semi-natural appearance with native species growing alongside cultivated and functional elements such as narrow woodchipped paths, a pond, and garden features. There are no visual or physical barriers demarcating the end of the garden from the appeal land, nor anything to indicate that the area has not formed a single entity for a significant period. While the aerial imagery suggests a heavily vegetated area, I consider that such imagery does not provide a reliable indication of the way in which the land is experienced or used at ground level.
11. Furthermore, the character or degree of cultivation of land is not determinative of whether it forms part of a domestic garden. Garden land may vary considerably in appearance, ranging from formal and intensively managed spaces to informal or rewilded areas. What is relevant is the use of the land. In addition to the appellant's submissions, the neighbours' statutory declarations confirm that the appeal land has been used as part of the garden for a considerable period, including use by

their and the appellant's children for play more than a decade ago, and daily use by the appellant and his family.

12. Having regard to my site observations and the submitted evidence, including the notarised statutory declarations, to which I attach substantial weight, I find on the balance of probabilities that the appeal land has been in continuous use as garden land for a period exceeding 10 years prior to the application. There is no substantive evidence to the contrary. I consider that the evidence is sufficiently precise and unambiguous in these circumstances to show that the use is lawful and immune from enforcement action.

Conclusion

13. For the reasons given, I conclude, on the available evidence, that the Council's refusal to grant a certificate of lawful use or development for the use of the land as garden land for a period of greater than 10 years was 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).

S A Hanson

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 7 August 2024 the development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

It has been demonstrated, on the balance of probabilities, that the land is used as garden in association with 18 Woodside. It has been established that the use has subsisted continuously for a period of not less than 10 years prior to the date of the application, without material interruption, and is therefore immune from enforcement action.

Signed

S A Hanson
INSPECTOR

Date: 05 June 2026

Reference: APP/C1625/X/25/3358632

First Schedule

The use of land as garden land by applicant for a period of greater than 10 years

Second Schedule

Land at: 18 Woodside, Stroud, Gloucestershire GL5 1PW

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 would have been 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 development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or development 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.

For the avoidance of doubt, this certificate relates only to the use of the land. It does not confirm the lawfulness of any operational development or structures on the land.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 05 June 2026

by **S A Hanson BA(Hons) BTP MRTPI**

Land at: 18 Woodside, Stroud, Gloucestershire GL5 1PW

Reference: APP/C1625/X/25/3358632

Scale: Not to scale

