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## Appeal Decision

Site visit made on 27 May 2026

**by Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 8<sup>th</sup> June 2026

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**Appeal Ref: APP/D1265/X/24/3347536**

**9 Weston Street, PORTLAND, Dorset, DT5 2DF**

- 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 Simon Beare against the decision of Dorset Council.
  - The application ref CLP/2024/02279, dated 3 April 2024, was refused by notice dated 18 June 2024.
  - 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 erection of outbuilding (garage).
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### Decision

1. The appeal is dismissed.

### Reasons

2. No9 is at the western end of a short terrace of houses. To its side is a driveway that runs the full depth of the house and provides access to the land beyond. The appellant proposes to build a garage at the end of this driveway. The issue is whether the land beyond, where the garage would be situated lies within the curtilage on No9 or not.
3. There is a somewhat confusing planning history to the site. It seems the original owner of No11, which is joined to No9, wanted to build a house in his back garden which was refused. It seems he owned land that ran behind his and his neighbour's house at No9. He then sold this land to the then owner of No9, who ended up with a triple width back garden, which extended behind No11, No9 and the driveway to No9. It would seem the rest of the houses have retained their long back gardens and all these gardens extend some 40 or more metres to the rear.
4. There is plenty of evidence that this land was utilised as a garden by the previous owner, although currently it is partly overgrown, but it seems the other house owners also use the long pieces of land as gardens and when the appellant bought No9 he understood it had a large rear garden.
5. The Council argue it only became garden in 2023 when purchased by the appellant. The land was described as vacant in 2015 when the house to the rear of No11 was refused, but after that it seems it was used as a garden. If the lawful use of the land prior to 2015 was not residential then at some point after 2015 there may have been a material change of use to residential (ie a garden), but I have no evidence concerning the past history of the land.

6. In any event this is something of a red herring. Land can be used lawfully as a garden (that is a residential use) without it being part of the curtilage of a dwelling. Defining curtilage is a somewhat fraught process. For most homeowners it is simply the garden and driveway around their house. But in this case it is not so straightforward as there have been a number of changes in the disposition of the land to the rear of the house over the years. The backs of some of the houses have clearly defined yards that are fenced or walled off from the rest of the 'garden' land beyond, and No9 is one of these. A path runs down the side of the house beside the driveway, doglegs behind the yard and then carries on beyond into the 'garden land'. The rear yard is clearly defined and separated from the garden beyond.
7. The Courts have long held that the extent of curtilage is a matter of fact and degree for the decision maker. A number of different factors should be taken into account, including layout, degree of connection, scale, ownership etc, but an important one is whether there is an intimate connection between the land and the dwelling. In this case the clear degree of separation between the house, with its rear yard and the land beyond suggests the connection between the dwelling and the wider land beyond is not intimate. I do not consider the site of the garage lies within the curtilage of No9. Whether it is lawfully residential land I make no comment on due to the lack of evidence, but the fact that it is not curtilage means the garage is not permitted development and I shall dismiss the appeal.

*Simon Hand*

INSPECTOR