



Appeal Decision

Site visit made on 9 June 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 15th June 2026

Appeal Ref: APP/C3430/X/25/3369971

20 Hayes View Drive, Cheslyn Hay, Walsall WS6 7EX

- The appeal is made by Dawn Tear under section 195 of the Town and Country Planning Act 1990 against a refusal by South Staffordshire District Council to grant a lawful development certificate.
 - The application Ref: 25/00303/LUE, dated 27 March 2025, was refused by notice dated 10 July 2025.
 - The application was made under section 191(1)(b).
 - The development for which the certificate is sought is the regularisation of an existing driveway encroachment onto the public highway at 20 Hayes View Drive.
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Introduction

1. 20 Hayes View Drive is the last bungalow at the end of a short cul de sac which is a public highway. It appears to have been laid out originally, in common with its neighbours, with an open frontage consisting of a lawned garden and a driveway from the road leading to a garage at the rear.
 2. During 2011/2012 the previous owners of the bungalow carried out operations that converted most of the front garden into an open parking area for the bungalow. The lawn and driveway were replaced with concrete slabs having the appearance of block paving. These slabs were also extended over the footway as far as the roadside gutter at the edge of the carriageway, into which the slabs drain. The surface of the tarmac footway was replaced at the same level by the slabs and the dropped kerb was extended across most of the frontage.
 3. The consent of the highway authority to these operations was required and it appears not to have been obtained. The footway is still legally part of the public highway. However, it has not been obstructed and it still serves its main purpose of providing access to the bungalow, since it leads to nowhere else.
 4. The appellant is seeking "the regularisation of an existing driveway encroachment onto the public highway" under section 191(1)(b). This can only refer to the operations carried out in 2011/2012 and is concerned only with the lawfulness of these operations for the purposes of the Planning Act. The application could not authorise a change of use of the footway to private residential use, since that could only be achieved under highways legislation, and in any event this does not actually seem to be the appellant's objective.
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Appeal decision

5. The appeal is allowed and attached to this decision is a lawful development certificate relating to the operations described in the certificate, which I consider were lawful for the purposes of the Town and Country Planning Act 1990 at the time of the application for the certificate.

Reasons for the decision

6. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the operations, as defined in section 191 of the Act, at the time of the application on 27 March 2025. The planning merits of the operations are not relevant to the appeal and there is no planning application before me.
7. The Council's decision notice omits the reasons for the refusal of the certificate. The planning officer's recommendation was to refuse it for the following reasons: -

"The evidence submitted and available to the council shows that, on the balance of probability, whilst the hard surfacing has been in situ for a period in excess of 10 years, the nature of the use of the land that has transpired within this time is more a kin to that of part of the public footpath/highway use than that of a private residential driveway/curtilage use where this use has been to the exclusion of all other highways users. The local planning authority is therefore unable to issue a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 (as amended) on that basis."

This recommendation is understandably confused about the objective of the application. I have clarified this in paragraphs 3 and 4 above.

8. Section 191(2) states that for the purposes of the Act operations are lawful at any time if no enforcement action may then be taken in respect of them because the time for enforcement action has expired and they do not constitute a contravention of any of the requirements of any enforcement notice then in force. The Council do not dispute that the time limit has expired. There is no enforcement notice in force.
9. The highway authority have treated the application as relating to a change of use of the footway to private use. I have clarified this matter as above. On the specific points the highway authority raise, firstly, the existing turning head is adequate to allow large vehicles to turn without mounting the footway here and it is unaffected by the operations and, secondly, the operations have not impeded access to utility services.
10. In the circumstances I have explained, the Council's decision to refuse the application is not well founded. The appeal has therefore been allowed and a certificate has been granted in the terms set out in the attached Certificate of Lawful Development.

D.A.Hainsworth

INSPECTOR



Lawful Development Certificate

APPEAL REFERENCE APP/C3430/X/25/3369971
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39 & SCHEDULE 8

IT IS CERTIFIED that on 27 March 2025 the operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown edged and hatched in black on the plan attached to this certificate were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990, for the following reason:

No enforcement action could then have been taken in respect of the operations because the time for enforcement action had expired.

D.A.Hainsworth

INSPECTOR

Dated: 15th June 2026

First Schedule

The extension of the driveway over the footway.

Second Schedule

20 Hayes View Drive, Cheslyn Hay, Walsall WS6 7EX

Notes

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990.
2. It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful on the specified date and, therefore, were not liable to enforcement action under Part VII of the 1990 Act on that date.
3. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations that are materially different from those described or which relate to any other land may render the owner or occupier liable to enforcement action.



Plan attached to Lawful Development Certificate

20 Hayes View Drive, Cheslyn Hay, Walsall WS6 7EX

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This is the plan attached to the Lawful Development Certificate dated: 15th June 2026

D.A.Hainsworth

Inspector

