



Appeal Decision

Site visit made on 29 June 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 07 July 2026

Appeal Ref: APP/N0410/X/25/3369166

38 Tockley Road, Burnham, Buckinghamshire SL1 7DH

- The appeal is made under section 195 of the Town and Country Planning Act 1990, as amended (the Act) against a refusal to grant a certificate of lawful use or development.
 - The appeal is made by Mrs Philippa Griffith-Jones against the decision of Buckinghamshire Council.
 - The application ref PL/24/3673/SA, dated 28 December 2024, was refused by notice dated 24 February 2025.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought was described as *'We would like to have a drop kerb installed in front of our property to create a parking space on our front garden area. This will involve removal of a small grass verge and pathway and be re-tarmaced to allow vehicular access to our property which is already laid with gravel'*.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The banner heading above uses the application form description. The appeal form used *'Proposed to install a drop kerb directly in front of our property for vehicular access so we can park on our own land as road is over crowded'*, while the Council's decision used *'proposed vehicular access'*.

Main Issue

3. The main issue is whether the Council's decision to refuse the application for a lawful development certificate was well founded.

Reasons

4. In essence, the application sought to establish whether the provision of a drop kerb in front of No.38 (including a vehicle crossing over the pavement and a grass verge), so that the front garden could be used to park a car, would have been lawful if begun when it was made on 28 December 2024. For the appeal to succeed, the onus is firmly on the appellant to demonstrate, on the balance of probabilities, that the proposal was lawful on this relevant date.
5. This turns on whether the proposal was permitted development, granted planning permission by Article 3(1) under Schedule 2, Part 2, Class B and Schedule 2, Part 1, Class F(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO).
6. Class B includes the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule, i.e. Schedule 2 (though not Part 2, Class A but this is not relevant). Class F(a)

permits the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such.

7. A front garden boundary at No.38, along the back edge of the pavement, has been removed and made good with a band of block pavers, concrete slab edging and a concrete apron. Most of the rest of the front garden has been covered with loose gravel. It is agreed that Tockley Road is unclassified and that the proposed means of access to this highway, including removal of the front garden boundary, is required in connection with the hard surface. There is no dispute that parking a car on it would render the provision of the hard surface for a purpose incidental to the enjoyment of this dwellinghouse as such. Nor that the front garden is wide enough to park a car, as confirmed by measurements taken and agreed between the appellant and the Council Officer at my site visit.
8. The appellant maintained that the front garden, if between 4.92m and 5m long, was sufficient to park her car, which she identified – a Ford Fiesta hatchback at the roadside. The appellant considers it to be an averaged sized car.
9. The Council, which is also the Highway Authority, construed the appellant's site plan to show a 4.6m deep front garden; thus that the parking space would not be its required minimum 5m long and as a result a car would overhang the pavement. The Council then refers to Article 3(6) of the GPDO which includes that 'The permission granted by Schedule 2 does not... authorise any development which... creates an obstruction to the view of the persons using the highway used by vehicular traffic, so as to be likely to cause danger to such persons'. On this basis, the Council maintains the proposal was unacceptable in highway safety terms, so not permitted development and not lawful.
10. The site plan is annotated with a 4.92m (not 4.6m) deep front garden, between the front elevation of the house and back edge of the pavement as shown in this plan. The same dimension measured and agreed by the main parties is 4.92m on one side of the front garden and 4.97m on the other side, including the block pavers, slab edging and about half of the apron (the rest of the apron overlaps the agreed alignment of the back edge of the pavement). Albeit by a small shortfall, the parking space in the front garden would not be 5m long. This dimension is not a limitation or condition of Class B or Class F(a), nor is the size of a hard surface for parking a car. However, a parked car could overhang the pavement depending on its size. Even if the appellant's car would not, it might be changed and future occupants of No.38 could own a different car.
11. I saw that Tockley Road is a long, essentially straight cul-de-sac with houses fronting most of either side. There is a 30mph speed limit and street lighting. Albeit a snapshot in time, motor vehicle speeds appeared to me less than 30mph, constrained in part by cars parked on-street or overlapping the pavement. Despite what the Council claims, I saw no bus stops in this road, nor did the Council Officer direct me to any. No.38 is towards the dead end of the cul-de-sac and the pavement on this same side terminates at No.42.
12. However, this end, including Mallard Close, is more densely developed with houses in-depth and on-street parking bays or garage courtyards. In the absence of evidence to the contrary, there is therefore likely to be a reasonably high level of vehicle movements past No.38. Most pedestrians would pass No.38 using the opposite pavement, with just the occupants of three houses (Nos.38, 40 and 42)

likely to use the pavement past No.38 as well as visitors and delivery drivers or the like. Any pedestrian along this short stretch of the highway is a more vulnerable road user, especially if elderly, infirm or a child and it is also used by vehicular traffic. Despite a slightly wider kink in the road, a car overhanging the narrow pavement at No.38 could obstruct pedestrian visibility or movement, potentially forcing pedestrians towards the verge or carriageway and creating a hazard for both pedestrians and vehicles.

13. Consequently, as a matter of fact and degree, while each composite part of the proposal would respectively fall within the scope of Part 2, Class B and Part 1, Class F(a) of the GPDO, it would likely cause danger to highway users. Article 3(6) therefore applies, and the proposal was not permitted development. The appellant has not, therefore, shown on the balance of probabilities that the proposal was lawful on the relevant date.

Other Matters

14. The appellant considers that some pavement is in poor condition and with inconsiderate parking on it, causing a hazard to pedestrians, but these issues are for the Council and not within the scope of this appeal. The appellant refers to similar hard surfaces, front garden parking spaces and means of access at other properties in the road, including No.40 next to No.38 (albeit with little evidence of planning permission or being lawful for another reason, such as permitted development or passage of time). The appellant also considers that she would no longer have to park in the road, so her family would be safer, and believes the proposal would increase on-street parking capacity.
15. But planning merits such as this are not relevant to a lawful development certificate application. Nor is it procedurally possible to apply conditions to a certificate to modify or restrict the development – the proposal applied for was either lawful or not. My decision does not preclude another application if there was better evidence, or an application for planning permission where planning merits would be a relevant consideration.
16. I appreciate that the appellant is dissatisfied and frustrated with how the Council determined the application and then the basis of its appeal case. However, these concerns are not within the remit of my decision. Moreover, some matters of fact, such as the front garden depth at No.38, have been resolved by the main parties through the appeal process.
17. Irrespective of the outcome of this appeal, it would be a separate regulatory matter for the Council to determine whether it would exercise its powers under section 184 of the Highways Act 1980 (as amended) to facilitate the provision of a vehicle crossing over this footway and verge at No.38.

Conclusion

18. For these reasons, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate for a proposed vehicular access is well-founded. Accordingly, the appeal does not succeed and I will exercise the powers transferred to me in section 195(3) of the Act.

Robin Buchanan
INSPECTOR