



Appeal Decision

Site Visit made on 1 July 2026

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 July 2026

Appeal Ref: APP/N4720/X/26/3377309

Woodside Trading Estate, Low Lane, Horsforth, Leeds LS18 5NY

- 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 (LDC).
- The appeal is made by Lidl Great Britain Limited against the decision of Leeds City Council (the LPA).
- The application ref 25/02029/CLE, dated 13 December 2024, was refused by notice dated 1 September 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 described as: "application for lawful development certificate to confirm the implementation of planning permission ref. 20/04077/FU at Woodside Trading Estate, Low Lane, Horsforth, Leeds, LS18 5NY for 'demolition of existing buildings and erection of a retail foodstore with associated access, parking, drainage and landscaping'."

Decision

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

Preliminary Matters

2. S191 of the Act sets out that (1) if any person wishes to ascertain whether – (a) any existing use of buildings or other land is lawful; (b) any operations which have been carried out in, on, over or under land are lawful; or (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, they may make an application to the LPA.
3. The description of the development for which the LDC is sought above is taken from the application form. The LPA states that the application is made on the basis that an LDC is granted because a material operation has occurred, thereby commencing development and implementing the planning permission. The LPA states that it could not issue an LDC on that basis because S191 only provides for an LDC for existing uses or operations.
4. The LPA is correct, S191 of the Act does not make provision for an LDC to be issued simply confirming that a planning permission has been lawfully implemented. However, whilst the application is described as seeking to confirm the implementation of the permission, it is clear from the supporting documents to the application that the appellant is seeking to establish that operations have been carried out on the land which are lawful because they constitute development for which planning permission has been granted. The extent of the operations is set out in the covering letter to the LPA which accompanied the application. It sets out clearly that they seek to establish that the partial demolition of building Unit 1C and

building Unit 1E and partial demolition of the car park are lawful because they constitute development which is a material operation comprised in the relevant planning permission. I am satisfied that falls within the scope of S191(1)(b) of the Act and I will consider the appeal on that basis.

5. Nevertheless, the question as to whether future works on the site pursuant to the relevant planning permission would be lawful is not a matter I can determine under this appeal and would be a matter for separate consideration under S192(1) of the Act.

Main Issue

6. The main issue is whether the LPA's decision to refuse the application for an LDC was well-founded, with particular regard as to whether the demolition of part of building Unit 1C, part of building Unit 1E and part of the car park were lawful within the meaning of S191(2) of the Act.

Reasons

7. S191(2) of the Act states that operations are 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); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
8. The LDC seeks to establish that the demolition works referred to above constitute development for the purposes of S55 of the Act and were carried out lawfully as planning permission has been granted for them.
9. S55(1) of the Act defines development as including the carrying out of building operations or other operations in, on, over or under land. S55(1A) of the Act states that building operations includes the demolition of buildings. S55(2)(g) of the Act exempts from the definition of development the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority. The Town and Country Planning (Demolition - Description of Buildings) Direction 2021 (the 2021 Direction) sets out at section 3(1) that that demolition of the following shall not be taken to involve development: (a) any building the cubic content of which, measured externally, does not exceed 50 cubic metres; (b) the whole or any part of any gate, fence, wall or other means of enclosure. Section 2 makes clear that "building" does not include any part of a building.
10. The demolition involved here comprises the demolition of part of the hard surface car park and partial demolition of buildings. Therefore, they do not benefit from the exemption under S55(2)(g) of the Act. Having assessed the extent and complexity of the works undertaken, I am satisfied that they can properly be regarded as building or other operations in their own right. Consequently, the demolition works for which an LDC is sought comprise development for the purposes of S55(1) of the Act for which planning permission is required.
11. The question then turns to whether or not the works were comprised in a planning permission such that they were lawful. Planning permission was granted by the LPA for the appeal site on 20 December 2021 for the demolition of existing

buildings and erection of a retail foodstore (use Class A1) with associated access, parking, drainage and landscaping¹. Condition 1 of the permission required the development to be begun before the expiration of three years from the date of the decision.

12. S56(1) of the Act sets out that development shall be taken to be initiated at the time when the operations are begun. S56(2) states that development shall be taken to be begun on the earliest date of which any material operation comprised in the development begins to be carried out. S56(4) of the Act makes clear that material operation means, inter alia, (aa) any work of demolition of a building. A building is defined in S336(1) as any structure or erection, and any part of a building.
13. The LPA argues that the works are minor and should be considered *de minimis*. However, in practice, little is needed for development to be begun under S56(2) and the works do not need to be completed. Under S56(2), it is only necessary for the 'material operation' to be begun for the same to be true of the whole development. The crucial point is that the works carried out must be comprised in the development for which planning permission was granted. The question is thus whether the works were done in accordance with the relevant permission and were material as a matter of fact and degree.
14. The demolition carried out involved the removal of part of an area of the existing car park and the demolition of parts of the building Unit 1C and building Unit 1E. A letter from Stonedale Construction Ltd indicates that demolition and investigation work in respect of Unit 1C commenced on 5 December 2024. It is stated that the front wall had been removed to facilitate a structural engineers review whilst temporary propping works have been undertaken. It then notes that the openings were boarded up and fencing erected until the next stage of works can commence. The same is said of Unit 1E, with initial demolition and investigation works having commenced on 9 December 2024.
15. The photographic evidence shows, in respect of Unit 1C, that the brickwork and fenestration of the entire front wall of a narrow section of the overall building had been removed, leaving the internal areas and the internal floor visible. It appears to have been done in stages, with the upper floor façade being removed first, before being boarded over, followed by the ground floor. The images show that brick and blockwork had been intently removed, either by hand or machine.
16. The photographs show that, in respect of Unit 1E, a wider area of façade has been removed. The outer layer of brick appears to have been stripped from the building with the ground floor windows removed before the upper ones. The external brickwork then appears to have been entirely removed exposing the internal areas with internal walls remaining intact and the upper floor partly boarded. Again, the brickwork and fenestration have clearly been intently removed from the building in a manner that fits with the contractor's version of events.
17. In terms of the car park, the photographic evidence indicates that part of the car park had been cordoned off, before the hard surface was removed exposing the sub-base. The images show that it was removed with plant and machinery.

¹ LPA Ref: 20/04077/FU

18. Ultimately, I was able to see from my site visit that those parts of the buildings and the car park remain boarded over and fenced off and largely in the same condition they were at the time they were carried out. There is no evidence apparent that they constituted repairs or maintenance of the building, or that they were done solely to further investigative work. Likewise for the surface of the car park. Thus, to my mind, they are operations comprised in the partial demolition of a building or buildings and other operations comprising demolition works.
19. The planning permission makes clear that full planning permission was granted for the demolition of existing buildings. The existing buildings on the site are shown on the existing site plan which accompanied the application. The supporting documents refer to the demolition of all the buildings on the site. There are several conditions attached to the planning permission which refer to demolition works. Moreover, where buildings Unit 1C and Unit 1E presently exist is proposed on the approved plans to be part of a car park and landscaped area. It is clear therefore that the complete demolition of the buildings would be necessary to facilitate the approved development comprised in the permission.
20. Thus, it seems to me that the prior demolition of the buildings was part of the total works necessary to undertake the development. Moreover, they were a type of operation normally carried out by a builder and were specifically authorised by the planning permission. As a result, the beginning of those works of demolition should be taken as when the development was begun in accordance with the permission.
21. Similarly, the approved plans show that part of the site where the car park surfaced has been removed will comprise part of the new car park serving the retail use. The proposed car park would cover a greater area than the existing hardstanding, whilst the approved Proposed Surface Treatment plan shows that part of the site would be surfaced in stone mastic asphalt with 10mm chip. To that end, the existing hard surface would likely need to be removed to facilitate the consistent hard surfacing of the wider area of land proposed to form part of the car park. In addition, the Drainage General Arrangement plan shows that surface water drainage would be installed in the vicinity of the area of hardstanding that has been removed. It seems likely, therefore, that the hard surface would need to be removed to facilitate the installation of the drainage. As a consequence, I am satisfied that the demolition and removal of the existing hardstanding is an other operation comprised within the planning permission.
22. The LPA does not dispute that the demolition works were carried out within the relevant time period imposed by condition 1 of the permission. The appellant sets out that all pre-commencement conditions contained within the permission were complied with in advance of the expiration of three years from the date of the permission. There is no submission from either party that the demolition works were carried out in breach of any conditions such to render the works a breach of planning control as defined under S171A(1)(b) of the Act. Likewise, there is no suggestion the works were begun in breach of a condition precedent such to render the works as development without planning permission under S171A(1)(a).
23. The LPA argues that the extent of the works does not show intent to carry out the approved permission. However, the question is one of a matter of fact and degree, the intention of the developer is not relevant.

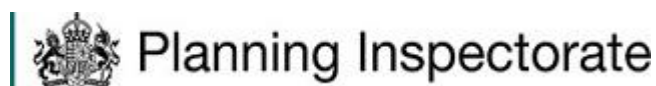
24. I conclude, therefore, that the partial demolition of buildings Unit 1C and Unit 1E, along with the removal of the car park surface, constitutes development for which planning permission is required and that they were undertaken with the benefit of planning permission.
25. As a result, having regard to S191(2) of the Act, the demolition works referred to herein were lawful at the date of the LDC application because (a) no enforcement action may then have been taken and (b) they did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Conclusion

26. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the demolition of part of building Unit 1C, the demolition of part of building Unit 1E and demolition of part of the car park 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).

J Whitfield

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 31 March 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 the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The demolition works referred to herein were lawful because (a) no enforcement action may then have been taken, as the operations constituted development for which planning permission had been granted and (b) they did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

J Whitfield

Inspector

Date: 20 July 2026

Reference: APP/N4720/X/26/3377309

First Schedule

The demolition of part of building Unit 1C, the demolition of part of building Unit 1E and demolition of part of the car park.

Second Schedule

Woodside Trading Estate, Low Lane, Horsforth, Leeds LS18 5NY

IMPORTANT NOTES – SEE OVER

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 operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 20 July 2026

by J Whitfield BA(Hons) DipTP MRTPI

Land at: Woodside Trading Estate, Horsforth, Leeds LS18 5NY

Reference: APP/N4720/X/26/3377309

Scale: Not to Scale

