



Appeal Decision

Site visit made on 26 August 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2026

Appeal Ref: APP/B0230/X/24/3356927

36 Letchworth Road, LUTON, LU3 2NU

- 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 Mohammed Faiz against the decision of Luton Borough Council.
 - The application ref 24/01090/LAWP, dated 27 September 2024, was refused by notice dated 22 November 2024.
 - The application was made under section 192(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 the erection of a garage outbuilding for the parking of a vehicle.
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Decision

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

Applications for costs

2. An application for an award of costs has been made by Mr Mohammed Faiz against Luton Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. I undertook a visit to the appeal site on the morning of 26 August. The visit was arranged as what The Planning Inspectorate refer to as an “access required” visit whereby somebody on behalf of the appellant should be in attendance to provide access to the site, without any discussion on the case itself. That being different to an accompanied visit where a representative of the Council would also attend.
4. However, in this instance, nobody was in attendance at all. Despite that I could see all I needed to see for the purpose of the appeal from public vantage points, particularly Howard Close at the rear. Thus, I proceeded on an unaccompanied basis.
5. It was apparent that a structure was in place, broadly in the location of the garage proposed in the current appeal. However, it is clearly not a garage, judging by the absence of a garage door and the presence of a double glazed window in the gable end, behind which were net curtains. A UPVC entrance door was situated in the side elevation. The structure is situated about a metre or so to the right of a pre-existing outbuilding and the two roofs have been connected with Perspex sheeting which provides shelter from the elements along the corridor between the two.

6. Both had a domestic air, judging by the net curtains and domestic paraphernalia that was visible in the corridor, including a vacuum cleaner, children's toys, shoes and some washing drying on a hanger. I noted that a fence with a gate had been erected half-way across the garden, separating the buildings from the rear of No.36 Letchworth Road. The gate was padlocked from the rear – on the side of the two outbuildings, such that it would not have been possible to open it from the garden of No.36. It is not clear if permission has been granted for the structure or if it amounted to permitted development.
7. For the avoidance of doubt, I must stress that my decision makes no comment on the lawfulness, or otherwise, of the structure I witnessed on my site visit. Whilst in broadly the same location as the proposed garage the design and use appear to be different, as set out above. My decision relates solely to the proposed garage for the parking of a vehicle, based on the plans submitted with the application.

Reasons

8. An application for a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) is not an application for planning permission. As such my decision makes no comment on the planning merits of the development. The main issue is whether the Council's decision to refuse the application was well-founded based on the facts of the case and any relevant judicial authority. The onus rests with an appellant to make their case, on the balance of probability.
9. More specifically, the main issue in dispute in this case is whether the proposed garage/ outbuilding would amount to development permitted under Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Class E(a) permits any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such. That broad heading of what is permitted is subject to limitations and conditions, set out at paragraphs E1 to E4.
10. There is no dispute that the proposed building would meet the limitations of paragraph E1 in terms of its dimensions, design and siting. Paragraphs E2 and E3 are not relevant to the proposal in question. The Council contends that the proposal would not meet the requirements of Paragraph E4 in that the proposed use would not, in its view, be for a purpose that is incidental to the use of the dwellinghouse and that it has no permitted right of access.
11. Taking the first point, the proposed use for the parking of a single vehicle for the residents of the dwelling is clearly a use that would be of an incidental purpose. In fact, a single garage is typical of the kind of development permitted by Class E. It would not be excessively large, being of a size to accommodate a single car, nor would it be disproportionate to the scale of the dwelling or its curtilage. To quote the caselaw referred to by the Council, the proposal is not based on the unrestrained whim of the home-owner but on a perfectly modest and reasonable desire to have somewhere to park a car. I am satisfied that it would be reasonably required in association with the use of the dwellinghouse.
12. The fact that there is another outbuilding already in situ does not alter that position. The other outbuilding is not a garage was seemingly a garden structure used for storage purposes at the time of the application. Whether that remained the case

at the time of my site visit was not clear but my decision must assess whether the proposal would have been lawful at the date the application was made.

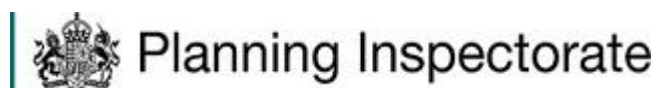
13. Class E does not seek to restrict permitted outbuildings to one per property and it is common for dwellings to have a range of sheds, garages, summerhouses and the like, each serving different ancillary functions. The combined size of the two outbuildings would remain modest and in proportion to the scale of the property and would clearly be incidental to its residential use. Thus, the use and scale would undoubtedly be of an incidental nature, falling squarely within the scope of paragraph E4.
14. The Council's reasons for concluding that it would not be possible to gain access to the garage are unconvincing. The rear garden backs onto the quiet cul-de-sac of Howard Close, from which access would be gained. The cul-de-sac is not a classified road and the construction of a means of access would be permitted development falling under Class B of Part 2, Schedule 2 of the GPDO, as that access would be required in connection with the proposed garage which would itself be permitted under Class E of Part 1.
15. The Council has referred to the narrow strip of land between the site and the highway at Howard Close as a landscape strip associated with adjacent housing. However, it has not suggested that providing an access across it would represent a breach of any conditions attached to a planning permission. It does now appear that the appellant owns the relevant strip of land but that information was only submitted with the appeal and would not have been available to the Council at the time of the application.
16. However, whether Council's highways department would agree to a vehicle cross-over is essentially a private matter for it. It does not change the fact that the proposal would amount to development permitted by the GPDO which is the relevant question. As noted within the Government's Planning Practice Guidance the grant of a certificate applies only to the lawfulness of development in accordance with planning legislation¹.
17. If, for whatever reason, the Council's highways department decided to refuse to allow a dropped kerb crossing under its own regulations, that would not alter the fact that the proposed garage would be lawful in respect of planning legislation. Had the Council confined itself to answering that question then it should have reached the conclusion that the proposed development was lawful, within the meaning of the Planning Act 1990 and would benefit from planning permission granted by Article 3(1) of the GPDO.
18. The application is made on the basis that the garage would be erected and used for the purpose of parking a vehicle. If a CLOPUD was granted it would be granted on that basis, for that specific purpose. If, for whatever reason, the appellant could not access the building with a car and a building was constructed and used for a different purpose then it would not benefit from the terms of any CLOPUD granted. That is not to say another incidental use would not be lawful but the application in this instance is for the erection of a building for a specific purpose. If the appellant constructed something else, then that would be at his own risk.

¹ Paragraph: 004 Reference ID: 17c-004-20140306, Revision date: 06 03 2014.

19. It is not strictly necessary and beyond my remit to comment on whether the Highways Department would permit an access to the property but the *Volker Highways Vehicle Crossover/ Dropped Kerbs* (March 2024) advice note has been referred to by the parties and I will address the matter for completeness. The Council has focussed on the part of the document which states that more than one crossover to a single property would not normally be approved. The stated reason for that is that “*the more points on the highway where vehicles turn, the more potential for traffic conflict there is*”.
20. However, that would appear to relate to multiple points of access onto the same highway. In this case, the property has a point of access at the front onto Letchworth Road whereas the proposed access to serve the garage would be onto the quiet cul-de-sac of Howard Close to the rear. There is no obvious reason why that would cause any conflict with highway safety and numerous other properties have a similar access point into the rear garden. In any event that is a private matter for the highway authority. For the reasons set out above, the matter does not alter the fact that the proposal would amount to permitted development, in planning terms, in accordance with the GPDO.
21. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the erection of a garage outbuilding for the parking of a vehicle 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).

Chris Preston

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 27 September 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red (with the location of the proposed building identified in black) on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed outbuilding/ garage for the parking of a vehicle would be reasonably required for a purpose incidental to the residential use of the property at 36 Letchworth Road, such that it would amount to development permitted by Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), thereby benefitting from planning permission granted by Article 3(1) of the GPDO.

Signed

Chris Preston

Inspector

Date: **04 September 2026**

Reference: APP/B0230/X/24/3356927

First Schedule

The erection of a garage outbuilding for the parking of a vehicle

Second Schedule

Land at 36 Letchworth Road, LUTON, LU3 2NU

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use/operations 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, 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 use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Scale: Not to Scale

