



Appeal Decision

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date 23 September 2026

Appeal Ref: APP/K0235/X/25/3364376

44 Great Portway, Great Denham, Bedford MK40 4GB

- 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 Mrs Mehmi against the decision of Bedford Borough Council.
 - The application ref 25/00435/LDP, dated 26 February 2025, was refused by notice dated 7 March 2025.
 - 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 a garage conversion to form an activity room.
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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 costs was made by the appellant against the Council. This is the subject of a separate Decision

Preliminary Matters

3. As the issues in dispute have been capable of determination on the basis of the parties' submitted documentary evidence, it has not been necessary to undertake a site visit.
4. An LDC is not a planning permission (PP). Its purpose is to allow landowners and others to ascertain whether specific uses, operations or other activities are or would be lawful and therefore immune from enforcement action. The determination of an LDC depends entirely on factual evidence and the interpretation of planning law, rather than planning policies or planning merits. Hence, for example, any amenity impacts on neighbouring properties, or the fact that the appeal site is within the countryside, are immaterial to whether or not an LDC is issued.
5. The onus is on the appellant to demonstrate, on the balance of probabilities, that the proposed development would be lawful. If there is no contradictory evidence from others to make their case less than probable, there is no reason to dismiss the appeal, provided that the appellant's evidence alone is sufficiently precise and unambiguous.

Main Issue

6. The main issue in this appeal is whether the Council's decision to refuse a LDC was well founded.

Reasons

7. In 1997, PP (Ref: 97/00445/REM) was granted for the development of 100 dwellings, including the appeal property. Condition 8 of this permission restricted the conversion of any garages into living accommodation. However, in 2015, a later PP (Ref: 15/01139/FUL) at the appeal site, authorised the development of one and two storey side / rear extensions, including the demolition and replacement of the original garage, without imposing an equivalent restriction. Accordingly, the proposed use of the ground floor of the extended dwellinghouse for any primary or ancillary residential use would be lawful.
8. The LDC proposal relates to the extended part of the dwellinghouse, which includes internal alterations such as the conversion of part of the ground floor into a bathroom. The plans also indicate that two windows and a pedestrian door would be installed on the front elevation and a pair of rooflights would be installed in the existing side facing roof slope. As these alterations would materially affect the external appearance of the building, I therefore find they would constitute “development” within s55 of the Act.
9. The appellant confirms¹ that all materials to be used throughout would match existing materials and submits that the development would be “permitted development” within the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”).
10. The Council accepts, and I agree, that the two windows and pedestrian door in matching materials would meet all the conditions and limitations for alterations to a dwellinghouse under Schedule 2, Part 1, Class A of the Order. Also, the submitted plans show that the rooflights would not protrude more than 0.15m above the existing roof slope. Although the plans do not indicate whether the rooflight would be capable of being opened, it appears likely, having regard to its position within the roof slope, that any opening parts would be situated more than 1.7 metres above the floor level of the room in which it is installed. Thus, provided that the rooflights are fitted with obscure glazing, they would meet all the conditions and limitations of Schedule 2, Part 1, Class C of the Order.
11. Overall, no material change of use from residential use is proposed. I am satisfied, on the balance of probabilities, that the proposed physical alterations would constitute permitted development. The Council also now accepts that to be the case. Accordingly, I conclude that the proposal would be lawful and that a Lawful Development Certificate should be granted.

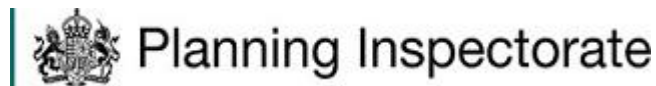
Conclusion

12. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development in respect of a conversion to form an activity room was not well founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended

S Lo

INSPECTOR

¹ LDC application form section 7



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 26 February 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, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

1. Subject to the roof lights being obscure glazed, the proposed development would benefit from planning permission granted by Article 3, and Class A and Class C, Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

S Lo

Inspector

Date 23 September 2026

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First Schedule

The conversion of an existing garage/side extension into an activity room

Second Schedule

144 Great Portway, Great Denham, Bedford MK40 4GB

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 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.

Plan

This is the plan referred to in this decision dated 23 September 2026

by S Lo LLB M.SRA

Land at: 44 Great Portway, Great Denham, Bedford MK40 4GB

Reference: APP/K0235/X/25/3364376

Scale: Not to Scale

