



Appeal Decision

Site visit made on 24 June 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 JUNE 2025

Appeal Ref: APP/T2350/X/24/3340642

Woodfold Park Stud, Woodfold Park, Mellor, BB2 7QA

- 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 Shokat Dalal against the decision of Ribbles Valley Borough Council.
 - The application ref 3/2023/0944, dated 17 November 2023, was refused by notice dated 16 January 2024.
 - The application was made under section 192(1)(a) 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 rear extensions to the dwellinghouse.
-

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.

Main Issue

2. For the avoidance of doubt, I make clear that the planning merits of the proposed erection of the rear extensions is not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether the proposed erection of rear extensions to the dwellinghouse known as Woodfold Park Stud would be permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. Planning permission was approved in 2006 for a new build dwelling, new build stud farm to house sixteen stables and a new build hay store.¹ The appellant has submitted a copy of the approved layout for this planning permission as part of this appeal. The approved plans show an area of land to the rear of the approved dwellinghouse which includes trees in an arched shape as well as what might reasonably be considered to be paths and grass. This land is flanked by the approved equestrian buildings although my site visit revealed that what had been built on the land did not appear to fully reflect what had been approved (i.e., the 'dog legs' or 'returns' to each equestrian block had not been completed). Beyond this land, the plans include the word 'yard' which I take to mean that associated with use of the equestrian buildings.

¹ Planning application 3/2006/0302

5. There is no dispute between the main parties that the proposed extensions do not fall foul of any of the size or other limitations or conditions of Class A of Part 1 of Schedule 2 of the GPDO. The disputed matter relates to whether the extensions would fall within the curtilage of the dwellinghouse on the land. Indeed, in order to benefit from permitted development rights, Class A.1(b) of Part 1 of Schedule 2 of the GPDO states that development is not permitted by Class A *'if as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)'*.
6. The extent of the curtilage of a building is a question of fact and degree considering relevant case law. Curtilage is not a use. Regard should be had to three tests of (i) physical layout of the building, and the land or building said to be in the curtilage, (ii) ownership (past and present), and (iii) use or function (past and present) applied. It is enough that the curtilage serves the purpose of the house or building in some necessary or reasonably useful way, and it must be intimately associated with the building to support the conclusion that it forms part and parcel of the building.
7. I have considered the appellant's evidence including statutory declarations, Counsel opinion, approved planning drawings, and site photographs. I was also able to visit the site and hence to consider the land around the dwellinghouse. As a matter of fact and degree, I find that the evidence indicates that the raised land immediately to the rear of the dwellinghouse and up to the stone wall (i.e., that adjacent to the lower hard surfaced path which leads to a gate with access into a field) has an intimate and physically uninterrupted functional association with the dwellinghouse. The evidence is that this land has always been used as a garden in association with the use of the dwellinghouse.
8. There is no evidence that the above raised land has ever been used by horses. Indeed, the evidence indicates that it has always had the appearance of a mown garden and has been so used by occupiers of the adjacent dwellinghouse. In my judgement, the evidence is that this land has always served the dwellinghouse as a garden and hence it forms part and parcel of such a dwellinghouse. Put simply, I therefore find that this rear grassed area (including its associated footpaths and a water feature) and extending up to the stone wall (i.e., before the hard surfaced path which leads to a gate with access into a field) forms part of the curtilage of the dwellinghouse on the land.
9. With reference to the appellant's 'curtilage plan' submitted as part of this appeal, I recognise that he considers that the curtilage of the dwellinghouse is larger than what I have found. However, owing to the size/extent of the dwellinghouse curtilage that I have identified (as a matter of fact and degree I find that this also includes the observed mown grassed areas and gravel driveway immediately to the front of the dwellinghouse), I find, in any event, that the proposed development would not exceed 50% of the total area of the curtilage of the dwellinghouse.
10. The local planning authority appears to take the view that as planning permission for a mixed use on the land was approved by it in 2006, it means that Class A of Part 2 of Schedule 2 permitted development rights cannot apply. That is not the case and, moreover, it does not mean that the dwellinghouse could never have had a curtilage. The latter is a matter of fact and degree for the decision maker and based on the evidence submitted.

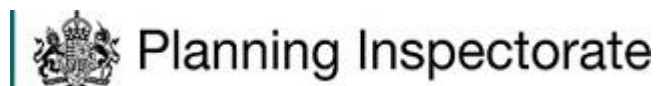
11. For the above reasons, and, as a matter of fact and degree, I conclude that the evidence demonstrates that the proposed extensions would be positioned within the curtilage of the dwellinghouse and that all the limitations and conditions in Class A of Part 1 of Schedule 2 of the GPDO would be met. Therefore, the proposal would be permitted development.

Conclusion

12. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of the erection of rear extensions to the dwellinghouse was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

D Hartley

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 17 November 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the plans attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed rear extensions to the dwellinghouse are permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

D Hartley

Inspector

Date: 26 JUNE 2025

Reference: APP/T2350/X/24/3340642

First Schedule

Erection of rear extensions to the dwellinghouse

Second Schedule

Land at Woodfold Park Stud, Woodfold Park, Mellor, BB2 7QA

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, was /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.

Plans

These are the plans referred to in the Lawful Development Certificate dated: 26 JUNE 2025

by D Hartley BA (Hons) MTP MBA MRTPI

Land at: Woodfold Park Stud, Woodfold Park, Mellor, BB2 7QA

Reference: APP/T2350/X/24/3340642

Scale: Not to Scale

