



Appeal Decision

Site visit made on 3 February 2026

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 19 February 2026

Appeal Ref: APP/B1605/X/25/3368036

19 Beaumont Road, Cheltenham, Gloucestershire GL51 0LP

- 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.
 - The appeal is made by Mrs Yvette Drake against the decision of Cheltenham Borough Council.
 - The application ref 25/003241, dated 27 February 2025, was refused by notice dated 16 April 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 described as a driveway (gravel) installed and need to get some kerb stones dropped and pavement re-laid.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made under section 195 of the Town and Country Planning Act 1990 against the refusal of Cheltenham Borough Council (“the Council”) to grant a Lawful Development Certificate (LDC) for the proposed formation of a new vehicular access and creation of a hardstanding.
3. An LDC may only be granted if the development described would be lawful at the date of the application. Planning merits are not relevant to this assessment. My decision rests on the facts of the case, and relevant planning law and judicial authority. The onus is firmly on the applicant (appellant) to demonstrate that, on the balance of probabilities, the proposed development would be lawful.

Main Issue

4. The main issue is whether the Council’s decision to refuse to grant an LDC was well-founded. This turns on whether the proposed vehicular driveway and access would benefit from the planning permission granted by Article 3(1), Class F of Part 1 and Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”).

Reasons

5. The appeal property is a semi-detached chalet bungalow occupying a corner plot on Beaumont Road, an unclassified highway within a residential estate. The proposal involves the formation of a new vehicular access from the highway and the construction of a permeable hardstanding to the front of the principal elevation.
6. The property has an open frontage, with a substantial evergreen hedge extending along the side and rear boundaries adjacent to the highway. At the front, the

hedge aligns with the building line of the dwelling and continues rearwards to adjoin the garage and an outbuilding situated at the rear of the plot. The front garden is modest in depth and currently laid to lawn with a pedestrian pathway leading to the front entrance. Newly planted hedge whips extend the existing boundary along the pavement to the front and the neighbouring front lawn to the side.

7. Class F of Part 1 of the GPDO permits the provision or replacement of a hard surface within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such. This is subject to the condition that where the area of ground covered exceeds 5 square metres and is located on land between the principal elevation of the dwelling and a highway, the hard surface is made of porous materials or provision is made to direct run-off water to a porous or permeable surface within the curtilage of the site. The application form confirms the use of permeable surfacing. Accordingly, the proposed hardstanding would comply with the requirements of Class F and would therefore be permitted development.
8. Class B of Part 2 of the GPDO permits 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 the access is required in connection with development permitted by any Class of Schedule 2 (other than Class A of Part 2). Beaumont Road is neither a trunk nor a classified road. The access would serve a permeable hardstanding that constitutes permitted development under Class F of Part 1. The proposal would therefore fall within the scope of Class B.
9. However, Article 3(6) of the GPDO provides that permitted development rights do not authorise development which “creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons.”
10. The proposed access would be situated close to a sharp bend of approximately 90 degrees, where visibility for road users is inherently constrained by the alignment of the carriageway. This limitation is compounded by the tall evergreen hedge along the side boundary, which significantly restricts forward visibility for drivers approaching from the bend. Drivers exiting the proposed access, whether in a forward gear or reversing, would likewise experience severely diminished visibility of oncoming traffic.
11. Although many neighbouring properties benefit from off-street parking, during my mid-morning weekday site visit I observed moderate levels of on-street parking in the locality, including along the property’s side boundary. Even discounting the presence of parked vehicles, the hedge alone would impede sightlines to an extent that would materially compromise the ability of drivers, cyclists and pedestrians to anticipate emerging or approaching traffic in a safe and timely manner.
12. This assessment is consistent with the advice of the Highway Authority, acting as statutory consultee. It concluded that the position of the access, combined with boundary vegetation exceeding 1 metre in height adjacent to the highway, would prevent adequate visibility in both directions and would not provide a safe and suitable access.
13. The appellant has submitted photographs of other driveways in seemingly comparable positions. However, no evidence has been provided regarding the

planning status of those accesses. In any event, an application for a certificate of lawfulness must be determined on the basis of whether the proposed development would be lawful on the date of the application and not through comparison with the circumstances of other properties.

14. In this case, it is the formation of the access, not simply the presence of the existing hedge, that would create an obstruction to visibility for highway users. This obstruction would give rise to a likely danger to persons using the highway and those emerging from the proposed access. Because visibility obstruction arises as a direct consequence of creating the access, the limitation in Article 3(6) applies irrespective of the proposal meeting the other requirements of Class B, and the development cannot therefore be considered permitted development.
15. For the reasons given above, I conclude that the Council's refusal to grant a Lawful Development Certificate for the construction of a vehicular driveway and hardstanding at 19 Beaumont Road, Cheltenham was well-founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

S A Hanson

INSPECTOR