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## Appeal Decision

Site visit made on 25 February 2020

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26<sup>th</sup> February 2020**

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**Appeal Ref: APP/U2235/X/19/3232438**

**10 Albany Street, Maidstone, Kent ME14 5AJ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by against the decision of Maidstone Borough Council.
  - The application Ref 19/501511/LAWPRO, dated 23 March 2019, was refused by notice dated 9 May 2019.
  - 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 conversion of existing dwelling loftspace incorporating a rear flat roofed dormer and 2 no. rooflights within the front roof and part removal of rear monopitch roof to create a roof terrace with balustrading.
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### Decision

1. The appeal is dismissed.

### Reasons

2. An LDC is sought for the alteration of the roof of 10 Albany Street. Permitted development rights for dwellinghouses are set out in Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 as amended (the 2015 GPDO). Class B of Part 1 relates to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. However, development is not permitted under Class B if, amongst other things, it would include the construction of a balcony, and a balcony is defined in technical guidance to the 2015 GPDO to be a platform with a rail, balustrade or parapet.
3. The proposed development includes a roof terrace with balustrading. A roof terrace is a balcony and the development therefore includes an element, the construction of a balcony, that is specifically excluded as permitted development by a proviso of Class B. The proposed development is therefore not permitted by Class B of Part 1 of Schedule 2 of the 2015 GPDO.
4. A similar development to that proposed has been carried out at 4 Albany Street under an LDC granted in August 2007 and that development included the construction of a balcony. But that development was carried out prior to the 2015 GPDO coming into force, under the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (the 1995 GPDO). The construction of a balcony was not excluded as permitted development by a proviso of Class B of Part 1 of Schedule 2 of the 1995 GPDO. The development at 4 Albany Street was

carried out under now superseded legislation and does not therefore set a precedent for the proposed development at 10 Albany Street.

5. The proposed development at 10 Albany Street, because it includes the construction of a balcony, is not development permitted under the provisions of the 2015 GPDO. The appeal has thus been dismissed.

***John Braithwaite***

Inspector