



Appeal Decision

No site visit made

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/Y1945/X/24/3338367

24 Brixton Road, Watford, Hertfordshire WD24 4DX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against a refusal to grant a certificate of lawful use or development ("LDC").
 - The appeal is made by Mr Jeremy Hodson against the decision of Watford Borough Council.
 - The application ref 23/01137/LDC, dated 7 December 2023, was refused by notice dated 1 February 2024.
 - The application was made under section 192(1)(b) of the 1990 Act.
 - The development for which a LDC is sought is a loft conversion with rear dormer and roof windows.
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Decision

1. The appeal is allowed and attached to this decision is a LDC describing the extent of the proposed operations which are found to be lawful.

Application for costs

2. An application for costs was made by Mr Jeremy Hodson against Watford Borough Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The planning merits of the proposed development are not relevant to this appeal. Therefore, a site visit would not help me reach a decision. I advised the parties of my intention to determine the appeal without a site visit. I have not received any comments disagreeing with this approach from either party.
4. The recommendation within the Council's Officer Report and the reason for refusal within their decision notice states that the proposed development would not be compliant with the requirements of B.1(d)(i) of Class B, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") as the roof volume would exceed 50 cubic metres.
5. Limitation B.1(d)(i) refers to 40 cubic metres. The dwelling is a terrace property, and the Officer Report correctly assesses the development against the 40 cubic metre limitation. Furthermore, the appellant acknowledges this typographical error within their appeal statement and therefore, has not been prejudiced by it. I have therefore determined the appeal based on limitation B.1(d)(i) of Class B, Part 1 of Schedule 2 of the GPDO.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant a LDC for the proposed development was well-founded.

Reasons

7. For a LDC to be granted under section 192 of the 1990 Act, it is necessary for the appellant to demonstrate, on the balance of probabilities, that the use or operations described would have been lawful on the date of the application having regard to the GPDO.
8. The appeal site comprises a two-storey, mid-terrace dwelling. It is proposed to construct a dormer to the rear roof slope and insert two roof lights within the front roof slope. Class B, Part 1 of Schedule 2 of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. While Class C, Part 1 of Schedule 2 of the GPDO permits any other alteration to the roof of a dwellinghouse.
9. The Council's Officer Report is clear that the sole reason for the refusal of the LDC is that the proposed development would contravene limitation B.1(d) of Class B. I have no reason to disagree with the Council's assessment that the proposed dormer would comply with all other aspects of Class B, Part 1 of Schedule 2 of the GPDO, and the proposed roof lights would comply with Class C, Part 1 of Schedule 2 of the GPDO.
10. Limitation B.1 of Class B, Part 1 of Schedule 2 of the GPDO states, as far as is applicable to this appeal, that development is not permitted by Class B if:

"(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than-

(i) 40 cubic metres in the case of a terrace house..."
11. The appellant's evidence submitted with the LDC states that the proposed dormer would equate to an increase of 39.96 cubic metres. Calculations were documented on a scaled drawing titled '*Evidence*' (drawing number 24BR-31). Further scaled drawings showing elevations, floor plans and a cross section including annotated measurements were also submitted with the application.
12. To accompany the appeal, the appellant has submitted further evidence including a hand drawn diagram that illustrates their calculations and states that the dormer's volume would be 39.7553 cubic metres. A further scaled drawing titled '*Evidence (Clarified)*' includes annotated measurements and calculations compiled using design software, that demonstrates the proposed dormer's volume would be 39.884 cubic metres.
13. All three of the appellant's measurements are very similar and indicate that the proposed dormer's volume would be less than 40 cubic metres.
14. The appellant also asserts that the above measurements include the volume formed by existing parapets and chimney stacks and if these areas are discounted (as shown on an annotated drawing submitted with the appeal), the volume of the proposed dormer would be 38.711 cubic metres.
15. The Council assert that the proposed dormer would equate to an increase of 40.68 cubic metres. The Council's Officer Report includes the height, width, depth and volume of different sections of the proposed dormer. However, it is unclear from the Officer Report where these measurements were taken.

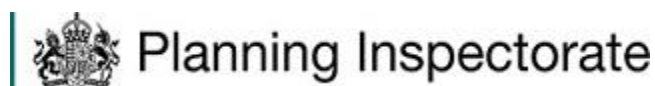
16. The appellant has provided post-decision email correspondence between themselves and the Council that sought to resolve the parties' volume discrepancy. The emails include rudimentary diagrammatic evidence from the Council indicating how the proposed dormer was measured.
17. The appellant asserts that the Council's diagrams indicate that their measurements include part of the existing roof slope, and from the information before me, I would agree. This has not been disputed by the Council.
18. Given the detailed submissions made by the appellant, against the Council's limited evidence, I am satisfied that, on the balance of probabilities, the proposal would comply with B.1(d)(i) of Class B, Part 1 of Schedule 2 of the GPDO. Consequently, the proposed development would have been permitted development on the date of the application.

Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a LDC for a loft conversion with rear dormer and roof windows is 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.

A Berry

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 7 December 2023 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:

The proposed development is permitted development pursuant to Classes B and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for which planning permission is granted by Article 3(1) of that Order.

Signed

A Berry

INSPECTOR

Date: 30 June 2025

Reference: APP/Y1945/X/24/3338367

First Schedule

Loft conversion with rear dormer and roof windows.

Second Schedule

Land at 24 Brixton Road, Watford, Hertfordshire WD24 4DX

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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 30 June 2025

by A Berry

Land at: 24 Brixton Road, Watford, Hertfordshire WD24 4DX

Reference: APP/Y1945/X/24/3338367

Scale: Not to Scale

