



Appeal Decision

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2025

Appeal Ref: APP/Z1510/X/24/3350595

110 Church Street, Braintree CM7 5JY

- 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 Samantha Noel against the decision of Braintree District Council.
 - The application ref 24/00544/PLD, dated 8 March 2024, was refused by notice dated 5 June 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is replacement windows.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings and photographs and is described in documents submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 110 Church Street is an end-terraced two storey cottage. The Appellant wishes to replace three timber windows with uPVC windows. Under Class A of Part 1 of Schedule 2 of the GPDO the enlargement, improvement or other alteration of a dwellinghouse is permitted development, subject to limitations set out in paragraphs A.1 and A.2 and conditions set out in paragraphs A.3 and A.4. The proposed development falls to be considered, and the Council considered the application, under Class A. They claim that the proposed replacement windows conflict with condition A.3(a) and would therefore not be permitted development.
4. Condition A.3(a) states that development is permitted by Class A but “the materials used in any exterior work...must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse”. The Government has published Technical Guidance to Part 1 of Schedule 2 of the GPDO. For condition A.3(a) the guidance is that “The condition...is intended to ensure that any works to...improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials”.

5. More specifically, the guidance is that "...it may be appropriate to replace existing windows with new uPVC double glazed windows...even if there are no such windows in the existing house. What is important is that they give a similar visual appearance to those in the existing house, for example in terms of their overall shape, and the colour and size of the frames". The inclusion of 'similar' requires a partly subjective assessment of, in this case, the replacement of timber windows with uPVC windows.

6. The two windows that would be replaced on the front elevation, one at each floor level, are timber white painted sash windows subdivided into small panes; the upper window is 3 over 6 and the lower window is 6 over 6. The proposed uPVC windows would be the same colour and the frames would be similar in size to the timber windows. The upper window would have nine 'panes' and the lower window would have twelve 'panes', both like the existing windows.

7. The main difference between the existing and proposed windows would be the method of opening. Rather than sliding sash windows the proposed upper window would be a top hung outward opening window and the proposed lower window would have a top hung outward opening top half. With regard to opening method, when closed the proposed windows would be similar in appearance to the existing windows but when open they would be different in visual appearance.

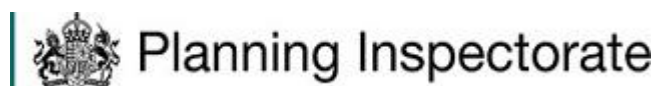
8. The proposed uPVC windows, compared to the existing windows, would be the same colour, the frames would be similar in size, and they would be similarly subdivided into small panes. The opening method would be different but, as a matter of planning judgement, this would not be a significant change. The replacement of an ugly modern casement window at the rear with a uPVC window to match the upper window on the front elevation would be a visual improvement.

9. The materials to be used in the proposed exterior work, the replacement of three timber windows with uPVC windows, would have a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The replacement windows would minimise visual impact and would be sympathetic to existing development.. The proposed works therefore satisfy condition A.3(a) and would be development permitted under Class A of Part 1 of Schedule 2 of the GPDO.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for replacement windows at 110 Church Street, Braintree was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 8 March 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Class A of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 24 November 2025

Reference: APP/Z1510/X/24/3350595

First Schedule

Replacement windows

Second Schedule

Land at 110 Church Street, Braintree CM7 5JY

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were 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 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 24 November 2025

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Land at: 110 Church Street, Braintree CM7 5JY

Reference: APP/Z1510/X/24/3350595

Scale: Not to Scale

