



Appeal Decision

Site visit made on 20 January 2026

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/Z0116/X/24/3357944

76 Birchall Road, Redland, BRISTOL, BS6 7TU

- 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 & Mrs C & G Partridge against the decision of Bristol City Council.
 - The application ref 24/02851/CP, dated 22 July 2024, was refused by notice dated 9 September 2024.
 - 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 Hip to gable and rear dormer loft conversion. Demolition of small hipped roof connected to the original roof.
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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.

Application for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the application form but have removed superfluous wording.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant a lawful development certificate (LDC) was well-founded. This will turn upon whether the development described in my banner heading above would have been lawful as at the date of the LDC application. Planning merits are not relevant to the assessment and the onus is on the appellant to make their case on the balance of probability.

Reasons

Legislation

5. Section 191(2) of the Town and Country Planning Act 1990 states that development is lawful at any time if (a) no enforcement action may then be taken in respect of it (whether because it did not involve development or require planning permission, because the time for enforcement action has expired, or for any other reason); and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.

6. The point in dispute is whether the proposed development represents permitted development (PD) pursuant to Article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Class B) which permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Analysis

7. The appeal property is a semi-detached dwelling which has a two-storey side extension that is connected to the original roof and sits behind a flat-roofed single storey garage. A pitched roof single storey extension projects from the side of the two storey extension. The proposed development would entail construction of a hip to gable and rear dormer window loft conversion along with demolition of the hipped roof on the two storey side extension and erection of a flat roof in replacement.
8. The appellant's position is that the proposal represents PD under Class B. The Council disputes this, contending that the proposal would breach the volume limitation in B.1(d)(ii) of Class B. This is on the basis that (i) the appellant's calculations as to the volume added by the hip to gable extension and dormer window are incorrect; and (ii) the appellant has failed to take account of the volume of the pitched roof of the single storey extension.

(i) Volume calculations

9. The limitation in B.1(d)(ii) indicates that for a semi-detached house, development is not permitted by Class B if the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres.
10. By the LPA's calculations which are apparently taken from the submitted plans, the additions would have a volume of 'approximately' 52 cubic metres. The appellant's calculations using AutoCAD software lead to a volume of 49.33 cubic metres (on the basis that the hipped roof on the two storey side extension is demolished and replaced with a flat roof).
11. The appellant has identified discrepancies in the LPA's measurements as against those calculated using AutoCAD software. The LPA has not provided any detailed basis for its calculations in the light of the AutoCAD figures submitted with the application. Given that the AutoCAD measurements are given to the millimetre, it seems very likely that the Council's measurements from the plans were slightly incorrect and that the discrepancies as between the parties' measurements accounts for the difference in the overall volume calculations as between the parties. On the available evidence, I find on the balance of probability that the appellant's calculations are accurate.

(ii) Inclusion of single storey extension roof volume

12. Paragraph B.3. explains that, for the purposes of the Class B volume allowance, the term 'resulting roof space' means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by Class B or not.
13. The Permitted development rights for householders Technical Guidance 2019 (TG) offers interpretative guidance in relation to Class B. This defines the 'original roof space' as the roof space in the 'original building', defined as the building as it

- existed on 1 July 1948 (where it was built before that date), and as it was built (if built after that date). It appears to be agreed that the date of construction of the single storey side extension means that it does not form part of the original building.
14. The TG advises as regards the Class B volume allowance that 'Any previous enlargement to the original roof space in any part of the house must be included' in the B.1.(d) volume allowance. The LPA contends that this means that the volume of the single storey extension roof should be included in the B.1.(d) volume allowance, with the result that this would be exceeded.
 15. However, plainly the relevant sentence relied upon in the TG references only previous enlargements to the original roof space. The single storey extension roof is not connected to the roof of the main house and as such does not represent an enlargement to the original roof space. I share the appellant's view that simply because a roof space at the property is not original does not mean that it represents an enlargement for the purposes of Class B.
 16. The volume of the single storey side extension roof space does not therefore fall to be included within the B.1.(d) volume allowance. This approach is in line with the approach that the LPA has taken in other similar LDC applications (as supported by copies of submitted plans) and by other Inspectors in decisions cited by the appellant.
 17. I acknowledge that the LPA cites an appeal decision¹ where an Inspector found that the roof volume of a previous single storey rear extension should be included within the B.1.(d) volume allowance. The LPA has not provided copies of submitted plans but it appears that the property in that case had an elongated hipped roof form, which sloped down over part of the ground floor at the side. As such, it is possible that the roof of the ground floor rear extension joined the main roof by reason of the elongated roof form described, which would represent a factual basis for a different approach being taken in that case. In any event, I have explained the basis for my interpretation of the relevant statement within the TG.
 18. I find then as a matter of fact and degree and on the balance of probability that the proposed development would be PD under Class B. It would therefore have been lawful as at the date of the application.

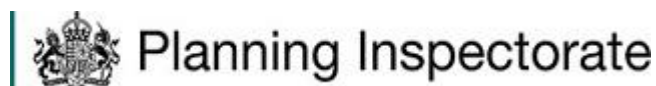
Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for Hip to gable and rear dormer loft conversion. Demolition of small hipped roof connected to the original roof 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 (as amended).

V Bond

INSPECTOR

¹ Ref: APP/Z0116/X/24/3340644



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 22 July 2024 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:

Carried out concurrently as a single development, the Hip to gable and rear dormer loft conversion and demolition of small hipped two storey side extension roof connected to the original roof complies with Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

V Bond

Inspector

Date: 13 February 2026

Reference: APP/Z0116/X/24/3357944

First Schedule

Hip to gable and rear dormer loft conversion. Demolition of small hipped roof connected to the original roof.

Second Schedule

Land at 76 Birchall Road, Redland, BRISTOL, BS6 7TU

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: 13 February 2026

by V Bond LLB (Hons) Solicitor (Non-Practising)

Land at: 76 Birchall Road, Redland, BRISTOL, BS6 7TU

Reference: APP/Z0116/X/24/3357944

Scale: Not to Scale

