



Appeal Decision

Site visit made on 12 March 2026

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2026

Appeal Ref: APP/J1860/X/25/3375567

Brookend Cottage, Abberley, Worcestershire WR6 6BU

- 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. Nigel Harniman against the decision of Malvern Hills District Council.
 - The application ref M/25/01338/CLPU, dated 25 August 2025, was refused by notice dated 21 October 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 a single storey extension to kitchen at the rear of the property.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development (LDC) describing the use which is found to be lawful.

Preliminary Matters

2. The application was made under section 192 of the Town and Country Planning Act 1990 (as amended) (the Act) seeking an LDC for proposed development. The evidence before me confirms that the works have since been carried out in accordance with the plans accompanying that application. Accordingly, in determining this appeal under section 195 of the Act, I have assessed the lawfulness of the development as constructed.
3. An application under S192(1) of the Act seeks to establish whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful if instituted or begun at the time of the application. Section 192(2) provides that where the local planning authority is satisfied that the proposed use or operations would be lawful, they shall issue a certificate to that effect.
4. For the purposes of the Act, section 191(2) clarifies that uses and operations are lawful if a) no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) they do not constitute a contravention of any enforcement notice then in force.
5. The burden of proof lies firmly with the applicant to satisfy the local planning authority of the case for the LDC. Planning merits of the development are not material to the grant of an LDC. On appeal, the decision is whether the refusal is well-founded. This rests solely on the facts of the case, relevant planning law and any applicable judicial authority.

Main Issue

6. The main issue is whether the Council's reasons for refusing the LDC application was well-founded. This turns on whether the extension complies with the relevant limitations in Schedule 2, Part 1, Class A of the GPDO.

Reasons

7. The appeal relates to a single storey extension to a detached 18th-century dwelling set within a generous plot in the countryside. The property has been extended and altered over time. Its basic form now presents as broadly cruciform, with an elongated range of former agricultural buildings extending from the frontage towards the site entrance. The dwelling is set back from the lane with a large area to the front and side for parking.
8. The parties disagree about what is the principal elevation of the original dwellinghouse. No earlier applications or drawings exist for the property apart from the drawings prepared for and approved under Ref 76/01468/FUL for alterations to the farmhouse. These constitute the earliest available official record of the dwelling as it then stood and were said to be based on a measured survey of the existing structure and the pre-1948 fabric visible at that time.
9. The Government's *Permitted Development Rights for Householders: Technical Guidance* (2019) as referenced by the Council, explains that the principal elevation is typically the part of the dwelling that fronts, either directly or at an angle, the main highway, and usually accommodates main architectural features such as bay windows or a porch to the main entrance. There will only be one principal elevation on a house. While the Council highlights the presence of a door, doorbell and roof overhang and access to an internal hallway on the east elevation, greater weight must be given to the building's overall architectural form, its historic development and the elevation that presents as the main frontage to the public realm.
10. Based on the presented evidence, including current and historic plans, photographs, and my observations during my site visit, the south-facing elevation is the one that both visually and functionally reads as the primary frontage. It features fenestration and architectural detailing consistent with the "front" of a traditional rural dwelling.
11. The southern side also historically served as the "approach" elevation for those entering the site, as indicated by earlier mapping and photographic records. The internal layout shown on historic plans, with the scullery to the rear of the dwelling where the appeal extension has been erected, reinforces this reading. While the Council notes that the dwelling is "relatively fragmented in form", I am nonetheless satisfied, as a matter of fact and degree, that the south-facing elevation which directly faces the public highway is the principal elevation of the original dwellinghouse for GPDO purposes.
12. Accordingly, the proposal is not an enlargement beyond a wall forming the principal elevation. The appeal extension projects from the rear wall of the original dwellinghouse, and the Council's conclusion under Class A(e), Part 1 of Schedule 2 of the GPDO, cannot therefore be supported. Rather, the works amount to an enlargement projecting from the rear wall of the original dwellinghouse and therefore fall to be considered under Class A(g).

13. Class A(g) permits a single-storey rear extension to a dwellinghouse not on Article 2(3) land or an SSSI where it does not (i) project beyond the rear wall by more than 8 metres in the case of a detached dwellinghouse, and (ii) exceed 4 metres in height. On the stated figures, the proposal is comfortably within those thresholds. I therefore find the enlargement complies with Class A(g).
14. The Council's Statement of Case advances an alternative position: if the extension is not on the principal elevation, it contends that Class A(ja) would be breached because the appeal extension, when taken together with the extension granted in 2003 (Ref. 03/00710/FUL), would exceed limits set out in (e) to (j) of Class A.
15. Class A(ja) addresses the situation where "any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined)" would exceed the relevant limits. The key question is whether the proposed addition is joined to an existing enlargement in a manner that increases the extent of the rearward projection from the original rear wall (i.e., a linear "add-on" to the back), or whether it is a side-abutting junction which does not extend the rearward depth of projection.
16. The extension adjoins the eastern side of the 2003 rear extension but does not add to its rearward length. In other words, the proposal does not create a longer single rear projection; it is a lateral addition alongside the earlier enlargement. In such circumstances, while the two elements may meet, they do not constitute a single *total enlargement* for the purposes of extending the rearward projection measured under Class A(f)/(g). The relevant limit under Class A(g) is therefore properly assessed only against the proposed extension's own projection and height, both of which fall within the allowable thresholds as set out above.
17. Further to this, the Council's appeal statement considers that in terms of criterion (j), the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would exceed 4 metres in height, have more than a single storey and have a width that is greater than half the width of the original dwellinghouse. The appeal extension is single storey and infills a section of the dwelling beside an existing rear extension and the rear of the original dwelling. With the primary orientation to the back of the dwelling, the appeal development is classed as a rear extension and not a side extension to the previously enlarged part of the dwelling. The width restrictions in criteria (j) apply only where the extension is itself a side extension. They do not apply to rear extensions permitted under Class A. Consequently, the Council's alternative case under Class A(ja) is not supported.

Conclusion

18. For the reasons given, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the single-storey extension to the kitchen at the rear of the property was 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).

S A Hanson

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 25 August 2025 the development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown edged in red on the location plan and hatched in black on the ground floor plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The single-storey extension to the kitchen at the rear of the property would have constituted permitted development under Article 3 and Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Signed

S A Hanson
INSPECTOR

Date: 19th March 2026

Reference: APP/J1860/X/25/3375567

First Schedule

The single-storey extension to the kitchen at the rear of the property

Second Schedule

Land at: Brookend Cottage, Abberley, Worcestershire WR6 6BU

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 development 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 not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any development 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: 19th March 2026

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

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Scale: Not to scale

