

Appeal Decisions

Site visit made on 13 April 2026

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 May 2026

Appeal A Ref: APP/F5540/X/24/3351479

33A Winchester Road, Hounslow, Feltham TW13 5JX

- 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 Andrew Alexander Vorobiev against the decision of the Council of the London Borough of Hounslow.
- The application ref P/2024/1372, dated 30 April 2024, was refused by notice dated 1 July 2024.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which a certificate of lawful use or development is sought is as a self-contained two-storey house.

Summary Decision: The appeal is allowed, and a certificate of the lawful use is issued in the terms set out in the Formal Decision.

Appeal B Ref: APP/F5540/X/24/3343529

33A Winchester Road, Hounslow, Feltham TW13 5JX

- 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 Andrew Alexander Vorobiev against the decision of the Council of the London Borough of Hounslow.
- The application ref 01214/33A/LAW2, dated 20 January 2024, was refused by notice dated 17 April 2024.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which a certificate of lawful use or development is sought is separate two-storey 2-house.

Summary Decision: The appeal is allowed, and a certificate of the lawful use is issued in the terms set out in the Formal Decision.

Appeal C Ref: APP/F5540/W/24/3355265

33A Winchester Road, Hounslow, Feltham TW13 5JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Andrew Alexander Vorobiev against the decision of the Council of the London Borough of Hounslow.
- The application Ref P/2024/1248 was approved on 9 August 2024 and planning permission was granted subject to conditions.
- The development permitted was described as 'Retrospective permission for the erection of a two storey house consisting of two bedrooms with associated private amenity, parking, bin and cycle storages'.
- The conditions in dispute are Nos 5, 6, 7 and 8 which state that:
 - 5) *Within three months from the date of this permission, the boundary treatment details for the development shall have been implemented in accordance with the approved details. The development shall be maintained in accordance with the approved details at all times thereafter.*
 - 6) *A) Notwithstanding the submitted plans and supporting documents, and within three months from the date of this permission, the energy strategy for the development shall be implemented in accordance with the approved details. The development shall be maintained in accordance with the approved details at all times thereafter.*
B) Within three months from the date of this permission, the applicant must have entered into a binding arrangement with the Council to make an agreed contribution to the Council's Carbon Offset Fund, in accordance with the zero carbon strategy set out in the Energy Statement hereby

approved to an amount that equates to the shortfall in required energy savings to meet the 'zero carbon' target at the published rate in-force at the time of submitting details pursuant to Part A of this condition.

- 7) *Within three months from the date of this permission, details of secured cycle storage arrangements for No.33 and 33A Winchester Road TW13 5JX, in accordance with both the London Plan and adopted Local Plan shall be submitted to and approved in writing by the local planning authority. The cycle parking shall conform to London Cycling Design Standards guidance. The development shall be maintained in accordance with the approved details at all times thereafter without obstruction.*
 - 8) *Notwithstanding the submitted plans and supporting documents, and within three months from the date of this permission, the developer shall provide to each dwelling, Nos. 33 and 33A Winchester Road TW13 5JX, a set of containers for household use for the storage and collection of recyclable materials for the purposes of the Council's kerbside recycling service, to the specification then in use by the local authority's recycling collection service and shall notify the Council's refuse and recycling services when the development is first occupied. The waste and recyclable materials containers shall be stored in a proprietary refuse bin enclosure designed for the purpose to be supplied by the developer and located adjacent to each dwelling. Each dwelling with a private garden shall also be supplied with a garden waste composting bin of at least 220 litres capacity at the same time.*
 - The reasons given for the conditions are:
 - 5) *In the interests of pedestrian and vehicle safety, to protect neighbours' living conditions and to ensure a satisfactory appearance of the site and area.*
 - 6) *In order to ensure that the development makes the fullest contribution to minimising carbon dioxide emissions.*
 - 7) *In order to support sustainable transport objectives.*
 - 8) *In order to protect the quality of the local environment and neighbours' living conditions and to ensure appropriate means of refuse storage are provided.*
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Formal Decisions

Appeal A and Appeal B

1. The appeals are allowed and attached to this decision are certificates of lawful use or development describing the existing use which is found to be lawful.

Appeal C

2. The appeal is dismissed.

Applications for costs

3. An application for a full award of costs was made by Andrew Alexander Vorobiev against the Council of the London Borough of Hounslow in respect of Appeal A. That application is the subject of a separate Decision.

Preliminary Matters

4. The descriptions of development set out in the application forms for Appeal A and Appeal B include the appeal site address in the development description. In the interests of precision and brevity I have removed superfluous wording and wording that does not describe an act of development from the development descriptions of both Appeal A and Appeal B. With regard to Appeal B, it is noted that in some of the Council's submissions an additional reference number is also quoted¹. For consistency I have used only the reference number set out on the decision notice.

¹ 01214/33A/LAW2 and P/2024/0221

Appeals A and B

5. The LDC applications in respect of 33A Winchester Road as a self-contained two storey dwelling were both refused by the Council. Those applications were refused on the basis that there was 'an active' Breach of Condition Notice (BCN) in force at the appeal property and that the existing use that the LDCs sought to confirm 'would be in contravention of its requirements under s191 of the [Town and Country Planning] Act' [1990].
6. The BCN was served under s187A of the Act in respect of 33 Winchester Road, citing a planning permission granted on 17 July 2015 for the 'erection of a part 2 storey / part single storey rear extension to the housing (including modifications of the existing structure'² (the 2015 permission). The BCN noted that two conditions on that permission had not been complied with; an approved plans condition³ and a condition⁴ requiring the installation of a garage door in accordance with one of the approved plans.
7. Section 187A(2) of the Act states that a BCN may be served to secure compliance with a condition(s) if any conditions to which a planning permission is subject have not been complied with. Section 187A(5) goes on to state that the BCN shall specify the steps which the authority consider ought to be take, or which activities ought to cease, in order to secure compliance with the conditions specified in the BCN.
8. The steps required to secure compliance with the stated conditions were clearly set out within the BCN and are set out below in full as they appear on the BCN:
 - i) *Remove the unauthorised door on the front elevation of the single storey side extension and replace with the garage door in accordance with the approved plans number 033-P-PE17 under Ref: 001214/33/P6.*
 - ii) *To remove the staircase in the main dwellinghouse in accordance with the approved plans under numbered 0033-P-PP15 (sheet 1 and 2) Ref: 001214/33/P6.*
 - iii) *To remove the kitchen in the main dwellinghouse in accordance with the approved plans numbered 0033-P-PP15 (sheet 1 and 2) under Ref: 001214/33/P6.*
 - iv) *Remove [sic] of all resultant debris from the premises.*
9. Section 171A sets out expressions used in connection with enforcement matters. Thus, s171A(1)(b) states that for the purposes of the Act, failing to comply with any condition or limitation subject to which planning permission has been granted constitutes a breach of planning control. S171A(2)(a) states that the issuing of an enforcement notice as defined at s172 constitutes taking enforcement action, as does the service of a breach of condition notice as defined by s187A.
10. Section 191(1) provides however that if any person wishes to ascertain whether, inter alia, any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful⁵ they may make an application for the purpose (a certificate of lawful use or development). Uses and operations are lawful at any time (s191(2)(a)) if no enforcement action may be taken against them because the time for enforcement

² LPA Ref No: 0214/33/P6

³ Condition No. 2

⁴ Condition No. 6

⁵ S191(1)(c)

action has expired; and (s191(2)(b) they do not constitute a contravention of the requirements of any enforcement notice then in force. S191(3) goes on to state that any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is also lawful if (s191(3)(a)) the time for taking enforcement action in respect of the failure has expired; and (s191(3)(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

11. In the case of LDC appeals, the onus is on the appellant to make their case to the standard of the balance of probabilities. The LPA has not presented any evidence to challenge that submitted by the appellant. The Planning Practice Guidance (the Guidance) is clear that if a local planning authority has *'no evidence itself, nor any from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the application..'* This is however caveated by the proviso that the appellant's evidence alone must be *'sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'*.
12. The planning history of the appeal property (No. 33A) and that of the adjoining No. 33 is lengthy and complex. Nevertheless, with regard to the matter for which the LDCs sought approval, the appellant provided with the applications a detailed summation of the genesis of the appeal property, No. 33A, together with evidence demonstrating the length of time that it has been occupied as a separate self-contained dwelling unit. This evidence demonstrates various 'milestones' in the construction of the extension to No. 33, and its subsequent fitting out and sub-division to create two separate dwellings – No. 33 and No. 33A.
13. The submitted evidence, which included signed and witnessed 'statutory declarations' from the appellant and subsequent tenants of No. 33, shows the separate occupation of the two properties dating back to 2016. Further supporting evidence including separate utility bills and council tax statements and copies of assured shorthold tenancy agreements demonstrate that the two properties have been occupied independently of each other for at least four years, and on the balance of probabilities from the evidence, since October 2015. The LPA has not sought to challenge the appellant's evidence regarding the length of time that No. 33A has been occupied as, and separately to, No. 33 as a separate, self-contained dwelling unit. Instead, the LPA rely on the presence of the previously served, and still 'active', BCN regarding non-compliance with conditions attached to the 2015 permission, citing the provisions of s191(3)(b).
14. The BCN served by the Council did not expressly address the use of the appeal property as a separate unit of self-contained residential use. Nor did its requirements extend to, or refer to, the use or occupation of the appeal property as a separate self-contained dwelling unit. In respect of the matter for which the LDCs sought approval, the Council's decisions to rely on the provisions of s191(3)(b) were not well-founded as the matter set out in the LDCs was not a contravention of any of the requirements of that breach of condition notice.
15. Thus, I have not been presented with any evidence from the Council or from others that makes the appellant's version of events less than probable. I am also satisfied that that evidence is sufficiently precise and unambiguous. Appeals A and B concern themselves with the same existing use. There are some differences in the extent of the evidence submitted in respect of each case, and a subtle

difference in the development description initially afforded to each. However, I am satisfied that the nature of the available evidence, together with the basis of the LPAs refusal (and subsequent defence) of each LDC application, is sufficient to allow the appeals to succeed.

Conclusion in respect of Appeals A and B

16. In respect of Appeal A, for the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use as a self-contained two-storey house 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).
17. In respect of Appeal B, for the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use as a separate two-storey house 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).

Appeal C

Background and Main Issue

18. Planning permission⁶ (the 2024 permission) was granted retrospectively in 2024 for the erection of a two-storey house at No. 33A as a means to regularise the development as built. As previously set out in respect of Appeals A and B, the dwelling at No. 33A arose from the initial 2015 permission for the construction of a two storey extension to No. 33. The 2024 permission was subject to a range of conditions, of which conditions nos. 5 – 8 are the subject of Appeal C. These conditions relate to, respectively, boundary treatment details; energy strategy; details of cycle storage provision and arrangements for the storage of refuse and recyclable materials.
19. Thus, having regard to the above, the main issue is whether or not the conditions in their existing and previously approved form are necessary and reasonable, with particular regard to character and appearance and highway safety; minimising carbon dioxide emissions; the support and encouragement of sustainable transport and to ensure appropriate means of refuse storage are provided.

Reasons

20. The purpose of the appeal is not to expressly seek the removal of the conditions in question, but rather to vary the wording of conditions 5 to 8 to seek a longer period of time for the submission of the required information in respect of each of the conditions. This, the appellant states, would allow Appeals A and B to be determined jointly with Appeal C and, should Appeals A and B succeed, negate the need to implement the 2024 and the requirements of the conditions attached thereto.
21. The Council has not submitted a statement of case in respect of Appeal C. Nevertheless, a list of suggested conditions accompanied the submission of the appeal questionnaire which, with regard to the disputed conditions, proposed revised wording for each of the condition's timescales. In all four instances, the

⁶ LPA Ref No: P/2024/1248

Council's suggested conditions referred to a period of 18 months, rather than the originally approved three months, for the submission of the required information.

22. Although the 2024 permission was submitted (and subsequently approved) retrospectively, it was not unreasonable for the disputed conditions to be imposed. Nor has the appellant made a case that the disputed conditions were unreasonable or unnecessary, or indeed that any of the other conditions imposed were so.
23. It seems that the purpose of this appeal, as expressed in the appellant's 'Grounds of Appeal', was to facilitate coordinated timing of the determination of all three appeals. I have no compelling justification for the variation of the disputed conditions, nor am I persuaded that the presence of an approved LDC negates the presence of the disputed conditions or, indeed, the presence of the 2024 permission. It is a matter for the appellant and the Council to satisfy themselves as to which approval the parties seek to rely upon. Thus, it has not been demonstrated that the conditions are unnecessary or unreasonable and as such the appeal must fail and the terms of the 2024 permission therefore remain unaltered.

Conclusion in respect of Appeal C

24. For the reasons set out, and having considered all other matters raised, I conclude that Appeal C should be dismissed.

G Robbie

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 1 May 2024 the use as a self-contained two storey house 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

With regard to the matter for which the application for a certificate of lawful use or development sought approval, the Council's decision to rely on the provisions of s191(3)(b) was not well-founded as the matter for which approval was sought in the certificate of lawful use or development was not a contravention of any of the requirements of that breach of condition notice.

When taken together, the evidence submitted by the appellant is sufficiently compelling, precise and unambiguous such that on the balance of probabilities it is more likely than not that the appeal property has been used as a self-contained two storey house since at least 30 April 2020.

Signed

G Robbie

INSPECTOR

Date: **7 May 2026**

Reference: APP/F5540/X/24/3351479

First Schedule

Self-contained two storey house

Second Schedule

Land at: 33A Winchester Road, Hounslow, Feltham TW13 5JX

IMPORTANT NOTES – SEE OVER

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 use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **7 May 2026**

by **G Robbie**

Land at: 33A Winchester Road, Hounslow, Feltham TW13 5JX

Reference: APP/F5540/X/24/3351479

Scale: Not to Scale

Location Plan of TW13 5JX



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Scale:

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 20 January 2024 the use of the appeal property as a two storey house 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

With regard to the matter for which the application for a certificate of lawful use or development sought approval, the Council's decision to rely on the provisions of s191(3)(b) was not well-founded as the matter for which approval was sought in the certificate of lawful use or development was not a contravention of any of the requirements of that breach of condition notice.

When taken together, the evidence submitted by the appellant is sufficiently compelling, precise and unambiguous such that on the balance of probabilities it is more likely than not that the appeal property has been used as a self-contained two storey house since at least 20 January 2020.

Signed

G Robbie

INSPECTOR

Date: **7 May 2026**

Reference: APP/F5540/X/24/3343529

First Schedule

Two storey house

Second Schedule

Land at: 33A Winchester Road, Hounslow, Feltham TW13 5JX

IMPORTANT NOTES – SEE OVER

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 use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **7 May 2026**

by G Robbie

Land at: 33A Winchester Road, Hounslow, Feltham TW13 5JX

Reference: APP/F5540/X/24/3343529

Scale: Not to Scale

