



Appeal Decision

Site visit made on 12 May 2026

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 18th May 2026

Appeal Ref: APP/D5120/X/25/3361177

45 Mayplace Avenue, Crayford, Dartford DA1 4PQ

- 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 Craig Gibbons against the decision of the Council of the London Borough of Bexley.
 - The application ref 24/02752/LDCP, dated 7 November 2024, was refused by notice dated 31 December 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 a single storey rear extension.
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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.

Main Issue

2. The main issue in this appeal is whether the Council's decision to refuse a LDC was well founded.

Reasons

3. In an application for a LDC the onus is on the applicant, now appellant, to demonstrate on the balance of probabilities that the proposed development would be lawful. If there is no contradictory evidence from others to make their case less than probable, there is no reason to dismiss the appeal, provided that the appellant's evidence alone is sufficiently precise and unambiguous.
4. No. 45 Mayplace Avenue is a mid-terrace two storey dwellinghouse, which appears to have been constructed around the 1960s. The plans indicate that the ground floor of the existing dwelling includes a front porch, a living room, a dining room and a kitchen. A key feature of the site is a small single-storey structure located at the rear which has been referred to by the parties as a 'nib'.
5. Following the demolition of the nib, the proposed extension would project from the rear wall of what the appellant has described as the original dwellinghouse. It would extend across the full width of the house and would be built with an exterior finish to match the existing property.
6. The main issue is whether the Council's decision to refuse a LDC was well-founded. This turns on whether the proposed extension benefits from the planning permission ("permitted development") granted by Article 3 and Schedule 2, Part 1,

Class A of the Town and Country Planning (General Permitted Development) Order 2015 as amended (“the Order”).

7. The evidence indicates that the only matter in dispute is the limitation in Class A.1(j). It is not contested between the parties that, aside from this issue, the extension would meet all other conditions and limitations of Class A and would therefore constitute permitted development. I see no reason to depart from the parties’ agreed position regarding the remaining, undisputed aspects of Class A.
8. The relevant part of the limitation at A.1(j) excludes from permitted development, an enlargement of a dwellinghouse where it “would extend beyond a wall forming a side elevation of the original dwellinghouse”.
9. The term “original” in relation to a building is defined in Article 2 of the Order to mean the building “as existing” on 1 July 1948, or, if built on or after that date “as so built”. Further guidance on the interpretation of A.1(j) is provided in the Technical Guidance¹ to the Order. This states that a “wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. Houses will often have more than two side elevation walls. Where an extension is beyond any side wall, the restrictions in (j) will apply.”
10. The appellant considers that the nib does not constitute a side elevation of the original dwellinghouse. If the nib is a later addition, it cannot be regarded as part of the original dwellinghouse and therefore cannot form a side elevation for the purposes of Class A.1(j). On that basis, any restrictions within Class A.1(j), including those relating to the height and width of the extension, would not apply.
11. During my site visit, I observed several features in relation to the nib. The bricks used in the construction of the nib did not appear to match the face brickwork of the main house. The nib appears to have been constructed from a single skin (half-brick) wall. This is inconsistent with the main dwelling, which appears to be constructed using full brick standards. The adjoining property has a similarly sized nib, however, it appears to have been built with different bricks. This suggests that these structures were added independently over time rather than being part of a uniform original development. I also observed that a shared soil pipe has been enclosed within the nib’s walls, thereby restricting access for maintenance, which would be unlikely to form part of a cohesive original design.
12. The appellant has provided photographs which indicate the original rear door and window of the dwelling, which suggests that the nib was built over this external wall. In addition, the photographs appear to show a straight joint between the main building and the nib, which is indicative of the use of a wall starter system. Although these features were not observable during my site visit, they are consistent with other aspects of the nib’s development that I was able to inspect. Together, they also suggest that the two structures were not constructed as part of a single, original build.
13. An extract from the original deed’s location plan has been submitted, bearing what appears to be a HM Land Registry stamp. It depicts the rear of the terrace without the nib structure. It is therefore considered likely that this reflects the original footprint of the dwelling, indicating that the nib was a later addition, constructed

¹ Permitted development rights for householders: technical guidance 2019

after the original dwellinghouse, which itself likely dates from the post-1960s (or post-1948) period.

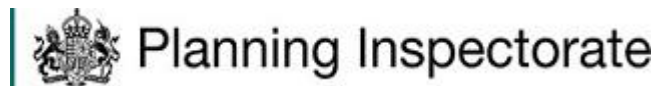
14. I acknowledge that the Council had limited information regarding the planning history of the appeal site before them at the time the application was determined. However, since then, the appellant's statement of case has since provided additional information, and that the Council has been afforded further opportunity to respond, which I have taken into account.
15. Overall, the appellant's evidence is sufficiently precise and unambiguous and is not contradicted by the Council's evidence. On the balance of probabilities, I find that the nib cannot be included as part of the original dwellinghouse for the purposes of Class A. Consequently, the proposed extension would not extend beyond a wall forming a side elevation of the original dwellinghouse. The limitations set out in Class A.1(j), including those relating to the height and width of the extension, do not therefore apply.

Conclusion

16. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for a single storey rear extension at 45 Mayplace Avenue, Crayford, Dartford DA1 4PQ 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 Lo

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 November 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:

1. The proposed single storey rear extension would benefit from planning permission pursuant to Article 3(1) and Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

S Lo

Inspector

Date: 18th May 2026

Reference: APP/D5120/X/25/3361177

First Schedule

Single storey rear extension

Second Schedule

Land at 45 Mayplace Avenue, Crayford, Dartford, DA1 4PQ

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, 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 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 this decision dated: 18th May 2026

by S Lo LLB M.SRA

Land at: 45 Mayplace Avenue, Crayford, Dartford, DA1 4PQ

Reference: APP/D5120/X/25/3361177

Scale: Not to Scale

