



Appeal Decision

Site visit made on 26 May 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th May 2026

Appeal Ref: APP/M0655/X/26/3377273

22 Bucklow Gardens, Lymm, Warrington, WA13 9RQ

- 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 Natalia Andrejczuk against the decision of Warrington Borough Council.
 - The application ref 2025/0144/CLDP, dated 17 October 2025, was refused by notice dated 12 December 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 proposed rear dormer.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed rear dormer are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether the proposal would amount to an act of development which requires planning permission.

Reasons

4. There is no dispute between the main parties that the proposal would not fall foul of the limitations and conditions of class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (2015 Order). I have no reason to disagree with this common ground position.
5. Notwithstanding the above, the evidence is that when the appeal property was originally approved, condition No. 07 of reserved matters consent reference 91/27725 was imposed which states '*notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no extensions or garages shall be erected within the curtilage of the dwellinghouse without the prior consent of the local planning authority (plots 4, 8, 9, 11, 22, 23 only)*'. It is not disputed that the appeal property relates to one of these plots. Article 3(4) of the Town and

Country Planning General Development Order 1988 (1988 Order) states that *'nothing in this order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part III of the Act otherwise than by this order'*. This is essentially mirrored in the 2015 Order.

6. The Council's position is that the proposed dormer constitutes a roof extension and falls within the curtilage of the appeal dwellinghouse. Hence, it states that it requires planning permission given the wording of condition No. 07 of reserved matters consent 91/27725.
7. The appellant considers that the proposed dormer is not an 'extension', that the reason for issuing the condition is *'to ensure the protection of trees within the site'* and the dormer would have no impact in this regard, and that the proposed dormer would not fall within the curtilage of the dwellinghouse. Consequently, the appellant's position is that condition No. 07 does not apply in respect of the proposed rear dormer. He also considers that as it would not fall foul of any of the limitations and conditions of Class B of Part 1 of Schedule 2 of the 1988 Order (or in respect of the revised 2015 Order), it would have been permitted development, and hence lawful, if instigated or begun on the date of the LDC application.
8. I acknowledge that the reason for imposing the condition relates to the protection of trees. While there is no evidence to suggest that the proposed rear dormer would have an adverse impact on any trees, it is nonetheless necessary that I consider the detailed wording of the condition as distinct from the reason for its imposition.
9. In this case, the word 'extension' is broad in scope. It means the provision of additional volume or the cubic content of an existing building. This includes a roof extension which would have additional volume or an external cubic content. Therefore, I find that the condition has removed permitted development rights in respect of an extension to the property, including a roof dormer.
10. Given the above, I find that permitted development rights relating to roof dormers, as outlined in Class B of Part 1 of Schedule 2 of the 1988 Order, were removed because of the imposition of condition No. 07 of 91/27725. While the appellant appears to suggest that the condition is not necessary in respect of roof extensions, based on the reason for imposing such a condition, I emphasise that there is a separate process in place in respect of the submission of a planning application which seeks to vary or delete a condition should the appellant consider that the condition no longer meets the condition tests as outlined in paragraph 57 of the National Planning Policy Framework 2024 (as amended).
11. Given the wording of condition No. 07, it is also necessary that I consider whether the proposed dormer would fall within the curtilage of the dwellinghouse. Curtilage is a matter that has been considered in the Courts. In broad terms, the ground used for the comfortable enjoyment of a dwellinghouse may be regarded as being within the curtilage of the dwellinghouse and an integral part of the same even though it has not been marked off in any way. It is enough that it serves the purpose of the dwellinghouse in some necessary or reasonably useful way.
12. The proposed dormer would be positioned on land which serves the dwellinghouse. The appeal building falls within land, including the open front and enclosed rear amenity spaces, which have an intimate association with such a dwellinghouse. Collectively, and, as a matter of fact and degree, I consider that

these respective land components comprise the curtilage of the dwellinghouse known as No. 22 Bucklow Gardens. Put another way, the dwellinghouse and the associated front and rear amenity spaces are part and parcel of the same curtilage.

13. In this case, I do not therefore agree with the appellant that the dwellinghouse itself does not form part of its curtilage. In reaching this conclusion, I also note that Part 1 of schedule 2 of the 1988 Order relates to '*development within the curtilage of a dwellinghouse*'. Within Part 1, there are then permitted development classes A to H. Class B of Schedule 2 of 1988 Order, which falls within Part 1, relates specifically to development within the curtilage of a dwellinghouse. This finding also applies in terms of the 2015 Order. It is also noteworthy that in respect of guidance relating to the 2015 Order, the Government's Permitted Development Rights for Householders: Technical Guidance 2019 states that curtilage is '*land which forms part and parcel with the house*' (my emphasis).
14. For the above reasons, I conclude that on the date of the LDC application the proposed rear dormer would have constituted an act of development as defined in section 55 of the Act. It would not have been lawful if instigated or begun on that date because permitted development rights relating to such a roof extension were removed given condition No. 07 of reserved matters consent 91/27725. Consequently, on the date of the LDC application, planning permission was required for the proposed rear dormer.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal in part to grant a certificate of lawful use or development for a proposed rear dormer is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

D Hartley

INSPECTOR