



Appeal Decision

Site visit made on 26 June 2026

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

an Inspector appointed by the Secretary of State

Decision date: 29 June 2026

Appeal Ref: APP/M0655/X/25/3376070

13 Willis Street, Fairfield and Howley, Warrington, WA1 3QE

- 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 Ashley Peters against the decision of Warrington Borough Council.
 - The application ref 2025/01349/CLDP, dated 25 September 2025, was refused by notice dated 17 November 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 allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Preliminary Matter

2. For the avoidance of doubt, I make clear that the planning merits of the proposed siting of a mobile home to provide ancillary annexe accommodation 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 to whether in view of the fact that a rear dormer already exists, albeit in different materials, it is possible to consider the proposal under section 192 of the Act and, if so, whether the proposal would be permitted development under Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. The application is made specifically on the basis of '*confirmation of the lawfulness under permitted development rights of a proposed rear L shaped dormer extension to the roof slope, at an existing dwellinghouse*' (my emphasis). There may be an existing dormer in the same position as the one that is proposed as part of this appeal, but it is not the same as the evidence is that it is finished in a different material. Moreover, and importantly, the LDC application was made to the Council as being explicitly described as a '*proposal*' and not based on what already existed to the rear of the property.

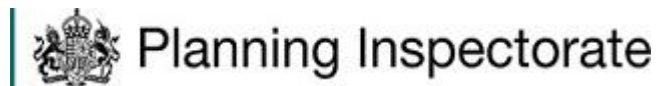
5. It is the case that one option would have been to apply for an LDC under section 191 of the Act relating to whether the existing dormer to the rear of the property was lawful. The evidence is that the existing dormer is not finished in matching materials and that the appellant is aware that it would not therefore be permitted development under Class B of Part 1 of Schedule 2 of the GPDO. That is presumably why the appellant did not make an application under section 191 of the Act.
6. In addition, the evidence is that the application is made based on a proposed new dormer, and not one that already exists and which would not benefit from being made to be permitted development. Indeed, Article 3(5) of the GPDO states that *'the permission granted by Schedule 2 does not apply if—(a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful'*. The appellant's covering letter states, *'the proposed rear roof extension will increase and improve the internal floorspace within the dwelling'* (my emphasis). In my judgement, this demonstrates that the proposal is for a new rear dormer and not one that relates in any way to the existing unauthorised dormer.
7. It is not the case that because a rear dormer already exists to the rear of the property, it therefore means that the applicant is unable submit LDC applications for any number of specified proposals (including new rear dormers). Indeed, section 192(2) of the Act does not say this. Instead, it states that *'if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect'*.
8. Given the reasoning above, I am satisfied that the LDC application was properly made under section 192 of the Act. As regards to whether the proposed new rear dormer would be permitted development under class B of Part 1 of Schedule 2 of the GPDO, it is noteworthy that there is no dispute between the main parties that it would not fall foul of the limitations and conditions of such a class of development. The evidence is that the appeal property is in use as a use class C4 house in multiple occupation (HMO). However, householder permitted development rights also apply to a use class C4 HMO. I do not disagree with the common ground position that the proposal would be permitted development under class B of Part 1 of Schedule 2 of the GPDO.
9. Consequently, the proposal would have been permitted development under class B of Part 1 of Schedule 2 of the GPDO if instigated or begun in accordance with the LDC application on 25 September 2025. For the avoidance of doubt, given Article 3(5) of the GPDO, and to properly define the scope of the LDC approval, I shall include the words *'proposed new rear dormer'* in the first schedule of the LDC.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a proposed rear dormer 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).

D Hartley

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 25 September 2025 the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the plans 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:

The proposal would have been permitted development under Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) if instigated or begun on the 25 September 2025.

Signed

D Hartley

Inspector

Date: 29 June 2026

Reference: APP/M0655/X/25/3376070

First Schedule

Proposed new rear dormer

Second Schedule

Land at 13 Willis Street, Fairfield and Howley, Warrington, WA1 3QE

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.

Plans

This is the plan referred to in the Lawful Development Certificate dated: 26 June 2026

by D Hartley BA (Hons) MTP MBA MRTPI

Land at: 13 Willis Street, Fairfield and Howley Warrington, WA1 3QE

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Scale: Not to Scale

