



Appeal Decision

Site visit made on 23 June 2026

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2026

Appeal Ref: APP/U4610/X/25/3373306

81 Mary Herbert Street, Coventry, CV3 5EW

- 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 Hunar Khudhr Mohammed against the decision of Coventry City Council.
- The application ref PL/2024/0002141/LDCE, dated 19 February 2025, was refused by notice dated 12 June 2025.
- The application was made under section 191(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 existing loft conversion with hip to gable conversion, rear dormer and front roof lights.

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

Preliminary Matters

1. The development is described on the application form as “dormer added to existing dwelling”. This description does not refer to the hip to gable conversion or the roof lights. The description on the decision notice, as set out in the header above, more accurately reflects the development. I have determined the appeal on that basis.
2. The appellant submitted additional details with the appeal which included measurements and volume calculations for the development. Section 195 of the Town and Country Planning Act 1990 (the 1990 Act) refers to the authority’s refusal being well-founded, meaning the local planning authority’s decision, not the reasons for the decision. While this evidence was not available when the Council determined the application, the Council has had the opportunity to consider it during the appeal process, and it would serve no public purpose for me to refuse the LDC strictly on the basis of the details submitted with the application, because it would be open to the appellant to make a further LDC application based on evidence that came to light after the Council’s decision. I shall therefore consider it based on the evidence submitted as part of this appeal.
3. Section 191(2) sets out that uses and operations are lawful at any time if no enforcement action may then 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 they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. The onus is on the appellant to demonstrate that the existing development would have been lawful on the date of the application, with the relevant test being the balance of probabilities. The appellant’s evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant’s version of

events less than probable, there is no good reason to dismiss the appeal, provided their evidence is sufficiently precise and unambiguous. The planning merits of the development are not relevant.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant a LDC was well-founded, having particular regard to whether the development would have been lawful on the date of the application.

Reasons

6. The appeal site relates to an end terraced dwelling. The development for which a LDC is sought is a hip to gable extension, a rear dormer and front roof lights, as shown on the submitted plans.
7. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for specified forms of development. Class B, Part 1, Schedule 2 of the GPDO relates to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, and is subject to limitations and conditions.
8. The Council refers to discrepancies between what is shown on the plans and what can be seen on site photographs. The Council contends that the plans show the side of the rear dormer being set in from the party wall with 83 Mary Herbert Street around the chimney breasts creating an internal flush wall, whereas as built it has been constructed up to the middle of the external chimney breast with the chimney breast retained internally. During my site visit it appeared to me that the dormer is set in marginally from both sides of the roof. Notwithstanding that the chimney breast is retained internally rather than set flush with the new internal wall, I am satisfied that the plans are an accurate representation of the position of the dormer relative to the sides of the roof.
9. The Council says that if the dormer has been built on the wall plate it should also be assessed under Class A of the GPDO as an enlargement of the dwelling and not just a roof addition. However, the submitted plan shows that the dormer is contained entirely within the roof area of the building. It does not extend beyond the perimeter of the roof or involve any enlargement or alteration of the external walls of the property. Even if the dormer does extend up to the side boundary, there is nothing in Class B to suggest that a roof addition cannot extend to the boundary. I therefore find that the development falls squarely within Class B. Class A is not relevant in this case.
10. Development is not permitted by B.1(d)(i) if the cubic content of the resulting roof space exceeds the cubic content of the original roof space by more than 40 cubic metres in the case of a terrace house. Whilst I note the appellant's point that any small exceedance of the volume limitation would be considered *de minimis*, the volume limitations at B.1(d) are expressed as a maximum permissible. Therefore, even if the exceedance is only marginal, the development would fall outside the scope of permitted development under Class B.
11. The Council's calculations suggest that the development exceeds the cubic content of the original roof space by 40.53 cubic metres which means that it would not be permitted due to the limitation at B.1(d)(i). However, the appellant has undertaken a

measured survey of the development which shows that its cubic content is 37.62 cubic metres. Although there does appear to be a minor discrepancy between the submitted plan and the development as built in relation to the position of the side wall of the dormer and the chimney breast, I am not persuaded that this would materially affect the appellant's volume calculations. There is no substantive evidence before me to demonstrate that the measurements of the development provided by the appellant and the volume calculations derived from those measurements, are inaccurate, or that the volume of the development exceeds the 40 cubic metres limitation. I am therefore satisfied that the development does not conflict with the limitation set out in B.1(d)(i).

12. The roof lights fall to be considered under Class C of Part 1 of the GPDO. The Council has not suggested that the roof lights do not accord with the limitations at paragraph C.1 or the conditions at paragraph C.2, and I have no reason to find otherwise based on the evidence before me.
13. I conclude that, on the balance of probabilities, the appellant has shown that the development was permitted development having regard to Classes B and C of Part 1 of Schedule 2 of the GPDO, and that it was lawful on the date of the application.

Conclusion

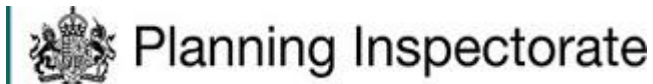
14. For the above reasons, on the evidence now available, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of an existing loft conversion with hip to gable conversion, rear dormer and front roof lights was not well-founded and the appeal therefore succeeds. Accordingly, I shall exercise my powers under section 195(2) of the 1990 Act, as amended.

Formal Decision

15. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operations which are found to be lawful.

M Ollerenshaw

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 19 February 2025 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 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, the operations described in the First Schedule were permitted development by virtue of Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

M Ollerenshaw

INSPECTOR

Date: **9 July 2026**

Reference: APP/U4610/X/25/3373306

First Schedule

Existing loft conversion with hip to gable conversion, rear dormer and front roof lights

Second Schedule

Land at 81 Mary Herbert Street, Coventry, CV3 5EW

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

Plan

This is the plan referred to in the Lawful Development Certificate dated: **9 July 2026**

by **M Ollerenshaw BSc (Hons) MTPI MRTPI**

Land at: **81 Mary Herbert Street, Coventry, CV3 5EW**

Reference: **APP/U4610/X/25/3373306**

Scale: Not to Scale

