



Appeal Decision

Site visit made on 8 July 2026

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2026

Appeal Ref: APP/Z4310/X/25/3376732

139 Picton Road and 2 Westdale Road, Liverpool, Merseyside L15 4LG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Naeem Baig against the decision of Liverpool City Council.
 - The application ref 24LE/3386, dated 26 August 2025, was refused by notice dated 14 October 2025.
 - The application was made under section 191(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is an extension built onto the existing gable wall which is 3x3 and has a roof added. This is an extension of the residential use of the building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An LDC is not an application for planning permission. Its purpose is to enable the appellant and others to ascertain whether specific operations or activities would be lawful. The burden of proof is upon the appellant. The test of the evidence is one of balance of probability. The appeal concerns only the lawfulness of the matter for which the LDC is sought, not its planning merits. The decision is based on the facts of the case and on relevant planning law and judicial authority.
3. An application under S191(1)(b) of the Act seeks to establish whether any operations which have been carried out in, on, over or under land are lawful. S191(2)(a) confirms that an operation is lawful at any time if no enforcement action may then be taken in respect of it (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. S191(4) of the Act sets out that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.

Main Issue

5. The main issue is whether the Council's decision to refuse the LDC was well founded. This turns on whether the appellant can show, on the balance of probability, that the proposed development would constitute permitted development by virtue of the provisions of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) ('the GPDO').

Reasons

6. The end-terraced appeal property lies within the Wavertree Village Conservation Area. The whole of the Conservation Area is subject of an Article 4 direction which restricts, among other things, the enlargement, improvement or other alteration of a dwellinghouse. The Article 4 direction was made on 18 June 1982, but it is unaffected by subsequent changes to policy or legislation.
7. The appellant says that the appeal property comprises three self-contained flats, but there is a barber shop on the ground floor at the front of the property. Even so, based on the definition of 'dwellinghouse' in the GPDO, the flats do not benefit from Class A permitted development rights. However, even if they did, the Article 4 direction means that planning permission must be sought from the Council to enable full consideration of the development's impacts. This is not to say that there is a blanket ban on the development, merely that planning permission must be obtained for it. In this case, no planning permission has been sought or obtained in respect of the development subject of this LDC.
8. The extension was a 'building operation' because it is an addition to the building and those works are normally undertaken by a builder. The extension is therefore 'development' having regard to section 55(1) of the Act even if the land was previously used in conjunction with the residential use of the property.
9. The appellant says that the extension was substantially completed on 1 October 2024. As such, the extension is not immune from enforcement action given the time limits in section 171B of the Act.
10. Therefore, for the reasons given above, I find on the balance of probabilities that the appeal property is subject of an Article 4 direction, and in any event the extension is not development, which is permitted by Class A of the GPDO, nor is it immune from enforcement action. The dimensions of the extension and the materials used to construct it do not alter these findings.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an extension built onto the existing gable wall which is 3x3 and has a roof added is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Andrew McGlone

INSPECTOR