



Appeal Decision

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2026

Appeal Ref: APP/Y1110/X/25/3366537

2 St. Bernards Close, Exeter, Devon EX2 4RX

- 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 and Mrs Roger O'Leary against the decision of Exeter City Council.
 - The application ref 25/0132/LPD, dated 3 February 2025, was refused by notice dated 9 April 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 the erection of dormer window.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the erection of a dormer window which is found to be lawful.

Preliminary Matters

2. For the purposes of obtaining a LDC the burden of proof lies with the appellant, and the standard of proof is the balance of probabilities. The relevant date for ascertaining whether the proposed development would be lawful is the date of the application. Consequently, the planning merits of the case are not relevant.
3. Section 192(2) of the Town and Country Planning Act 1990 (the Act) indicates that if, on an application under that 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; and in any other case they shall refuse the application.
4. The Council's third reason for refusing to issue the LDC was that the existing sectional drawings provided were considered insufficiently detailed to enable a full assessment of the proposed roof enlargement. However, when considered together, drawings 01814-3 Rev 2 (Existing Elevations), 01814-5 Rev 1 (Existing Section A-A) and 01814-4 Rev 1 (Existing Roof Plan) provide a comprehensive representation of the existing roof form, including its profile, pitch, ridgeline, eaves arrangement and overall relationship with the host building. Taken as a whole, these drawings provide sufficient information to understand the existing roof structure to be able to assess the extent and nature of the proposed alteration. I am therefore satisfied that adequate information was available to enable the Council to properly assess the lawfulness of the proposed roof enlargement.

Main Issue

5. The main issue is whether the LPA's decision to refuse the application for an LDC was well-founded, with particular regard to whether the proposal would accord with Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

6. The Council's decision alleges that the proposal would fundamentally alter the roof form and character of the original building, such that it would not fall within the scope of Schedule 2, Part 1, Class B of the GPDO. Furthermore, the Council contends that the proposal would fail to comply with paragraph B.1(c) of the GPDO because the enlargement would extend beyond the plane of the existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. I consider each of these matters in turn below.

Whether the proposal falls within the scope of Schedule 2, Part 1, Class B of the GPDO

7. Schedule 2, Part 1, Class B of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The Council contends that the proposal involves the extensive demolition of the existing west and south roof slopes, including structural elements such as purlins, trusses and rafters, and the construction of a substantial flat-roofed dormer extending across more than half of the original roof. It is argued that, by reason of its scale and the extent of the works required, the proposal would result in the effective loss of the original roof and would therefore go beyond what can reasonably be described as an addition or alteration to a roof for the purposes of Class B.
8. In support of its position, the Council refer to appeal decision APP/L5810/X/24/3339825. Whilst that decision supports the principle that works involving extensive demolition and reconstruction may go beyond what is permitted by Class B, each case must be considered on its own facts. Whilst I acknowledge that principle, the circumstances of the cited appeal are not directly comparable to those of the proposal before me. In particular, the scale and nature of the works proposed in that case differ from those associated with this appeal. Consequently, the decision is of limited relevance to the determination of this appeal.
9. Within its Statement of Case, the Council accepts that the proposal would not replace the entire original roof structure but contends that approximately 50% of the roof would be removed and replaced. It asserts that, notwithstanding the absence of any express limitation in the GPDO, the extent of the proposed works would be contrary to the intention of Class B and would fundamentally alter the original roof structure, thereby placing the development beyond the scope of permitted development. However, the GPDO does not prescribe a maximum proportion of roof structure that may be altered or replaced, nor does it contain any requirement for a particular percentage of the original roof to remain. Rather, Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to the limitations and conditions set out therein.
10. Whilst the proposal would involve substantial works to the existing roof and the construction of a wraparound dormer, it would not result in the complete removal and reconstruction of the roof such that an entirely new roof structure would be

created. Furthermore, the original roof form would remain clearly discernible following completion of the works. Consequently, I do not find that the extent of demolition and reconstruction proposed would, of itself, take the development beyond what may reasonably be regarded as an alteration or enlargement of the existing roof for the purposes of Class B.

Paragraph B.1(c) of the GPDO

11. Schedule 2, Part 1, Class B, B.1 (c) sets out that development under Class B is not permitted if any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.
12. To assess compliance with this provision, it is first necessary to identify the principal elevation of the dwellinghouse. The appellant contends that the north-east facing gable elevation fronting St Bernard's Close constitutes the principal elevation. The Council agrees that the gable end forms part of the principal elevation but asserts that the northeast setback wall and roof elevation facing St Bernards Close would also constitute the principal elevation.
13. The Council refers to the Permitted Development Rights for Householders: Technical Guidance (2019), which explains that a principal elevation can comprise more than one wall facing in the same direction. Whilst I have had regard to that guidance, the relevant issue in this case is the identification of the principal elevation and any roof slope that forms part of it. From the submitted plans, I find that the principal elevation is the north-east facing gable end fronting St Bernard's Close. The only wall forming that elevation is the gable wall itself, as the submitted floor plans illustrate that the width of the dwelling is defined by the gable end. Consequently, the principal elevation does not incorporate a roof slope. I therefore agree with the appellant's assessment that the proposal would not extend beyond the plane of an existing roof slope forming the principal elevation of the dwellinghouse.
14. The Council refer to appeal decision APP/M3835/X/10/2131571 to support the assertion that the principal elevation is not confined to a gable projection and that additional walls and roof slopes can also form part of the principal elevation. Whilst this general proposition is not disputed, it is not relevant to the appeal. In this case the principal elevation is solely the north-east-facing gable wall fronting St Bernard's Close. As that elevation does not incorporate a roof slope, the factual circumstances of APP/M3835/X/10/2131571 are materially different and the decision provides no support for the Council's position in this case.
15. Appeal decision APP/Y0435/X/22/3298151 is also referred to which asserts that, in L-shaped dwellings, the main dwelling roof slopes facing the road creates the plane of the principal elevation and that development on roof slopes forward of this line would be beyond the scope of Class B. However, in this case the appeal property is not L-shaped when considered separately from the adjoining property. As shown on the submitted plans, the appeal dwelling comprises a simple gable-ended form fronting St Bernard's Close, with the principal elevation formed solely by the north-east-facing gable wall. The configuration relied upon in APP/Y0435/X/22/3298151, where multiple elements of an L-shaped dwelling combined to establish the plane of the principal elevation, does not arise in this instance. Accordingly, the roof slope subject to the proposed development cannot

reasonably be regarded as a roof slope forming part of the principal elevation, and the circumstances of that appeal decision are materially different from those of the present case.

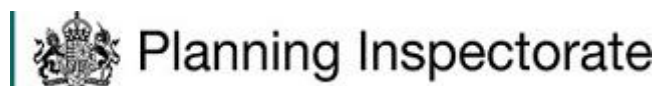
16. As drawing 01814/13 denotes, the only roof slope that forms part of a principal elevation fronting the highway is that of the adjoining property, No. 4. The common boundary clearly separates this roof slope from the appeal dwelling. The appeal property itself is defined by a front-facing gable end and, the principal elevation comprises only that gable wall. It follows that there is no existing roof slope on the appeal dwelling that forms part of the principal elevation. The Council's assessment therefore relies upon architectural features that do not form part of the appeal property and cannot be taken into account when determining whether the proposal falls within the scope of Class B.
17. I am not persuaded that the north-east roof slope should be regarded as forming part of the principal elevation. The submitted plans indicate that the dwelling presents to St Bernard's Close principally by way of its gable end, which defines the width of the building and provides its principal frontage. I therefore find that the principal elevation is limited to the gable wall itself.
18. Taking all the above factors together, I conclude that there is no existing roof slope on the appeal dwelling which both forms the principal elevation and fronts a highway. The proposed roof enlargement would not, therefore, extend beyond the plane of any such roof slope. Accordingly, the proposal complies with Schedule 2, Part 1, Class B, paragraph B.1(c) of the GPDO.

Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development for the erection of dormer window 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).

V Goldberg

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 3 February 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed erection of a dormer window at 2 St. Bernards Close, Exeter, Devon EX2 4RX is "permitted development" falling within Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, for which planning permission is granted by Article 3(1) of that Order.

Signed

V Goldberg

Inspector

Date: **17 August 2026**

Reference: APP/Y1110/X/25/3366537

First Schedule

The erection of a dormer window.

Second Schedule

Land at 2 St. Bernards Close, Exeter EX2 4RX

IMPORTANT NOTES – SEE OVER

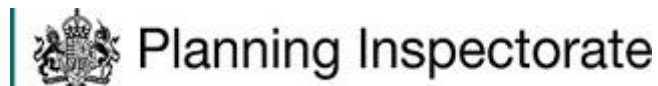
NOTES

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.

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 the Lawful Development Certificate dated: **17 August 2026**

by **V Goldberg**

Land at: **2 St. Bernards Close, Exeter EX2 4RX**

Reference: **APP/Y1110/X/25/3366537**

Scale: Not to Scale

