



Appeal Decision

Site visit made on 15 September 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2026

Appeal Ref: APP/T2215/X/25/3372973

145 Dartford Road, Dartford DA1 3EW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Mannarthottathil George against the decision of Dartford Borough Council.
 - The application ref DA/25/00577/LDC, dated 24 May 2025, was refused in part by the Council by notice dated 12 August 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 proposed replacement of existing external doors and windows with new grey UPVC framed windows and doors, relocation of side entrance gate in line with the front wall of the building to enclose the front door (on left hand side) behind the fence/gate and the renovation of the external walls with white insulated render. Increase height of existing fence along Havelock Road by 500mm, 750mm and 1100mm (at various locations).
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Decision

1. The appeal is dismissed in so far as it relates to proposed relocation of side entrance gate in line with the front wall of the building to enclose the front door (on left hand side) behind the fence/gate and increase height of existing fence along Havelock Road by 500mm, 750mm and 1100mm (at various locations). The appeal is allowed in so far as it relates to proposed replacement of existing external doors and windows with new grey UPVC framed windows and doors and the renovation of the external walls with white insulated render and attached to this decision is a certificate of lawful use or development describing the proposed operations which are found to be lawful.

Main Issue

2. Section 192 of the Town and Country Planning Act 1990, as amended (1990 Act) states 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. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal, and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.

Reasons

3. The proposed development is to replace the existing UPVC windows and doors in the property with new grey UPVC framed windows and doors, and to renovate the existing external walls of the house with white insulated render. In addition, it is proposed to relocate the side entrance gate in line with the front wall of the building

to enclose the front door (on left hand side) behind the fence/gate and to increase the height of the existing fence along Havelock Road by 500mm, 750mm and 1100mm (at various locations). Section 55 (1) of the Act states that for the purposes of this section, “*development*” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. Section 55(2) of the Act advises that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –

(a) The carrying out for the maintenance, improvement or other alteration of any building of works which –

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

4. The enlargement, improvement or other alteration of a dwellinghouse is permitted by Class A, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) subject to exceptions set out in A.1 and A.2 and conditions at A.3 and A.4. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO subject to exceptions set out in A.1.
5. Having regard to the Council's Refusal Notice¹ and supporting Delegated Officer Report, the Council accept that the replacement windows/doors and rendering the external walls of the dwelling would be lawful. However, the proposed LDC was refused because the relocation of the existing side entrance gate and increase in height of the boundary fence alongside Havelock Road would result in a fence and gate which would both exceed one metre in height and lie adjacent to a highway used by vehicular traffic. Whilst there is an existing wall/fence along the Havelock Road boundary, the proposed wall/fence as a result of the development would exceed its former height such that it would not be permitted development conflicting with Class A.1 (c), Part 2, Schedule 2, Article 3 of the GPDO.
6. From the evidence before me, the replacement of existing windows/doors with new UPVC windows/doors coloured grey would not materially affect the appearance of the building and thus having regard to section 55 (2) (ii) of the Act would not be development. Furthermore, I agree with the Council that renovating the existing walls of the dwellinghouse with white insulated render would be an improvement and alteration to the dwelling, which is permitted under Class A, Part 1, Schedule 2, Article 3 of the GPDO. Thus, the replacement windows/doors and rendering of the dwelling would be lawful.
7. The property has an existing boundary wall with fence above along its boundary with Havelock Road as well as a side entrance gate. The existing wall/fence and gate currently exceed one metre in height. The proposal seeks to increase the height of that wall/fence, such that its overall height would vary between 2.6m - 2.9m in height above ground level. The gate would also be repositioned to align with the front of the dwelling. The conditions set out in A.1 (c) of Class A, Part 2, Schedule 2 of the GPDO advise that development is not permitted by Class A where the height of any gate, fence, wall or other means of enclosure maintained,

¹ LPA Ref: DA/25/00577/LDC, dated 12

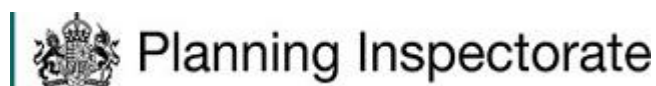
improved or altered would, as a result of the development exceed its former height, or in the case of a means of enclosure erected adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed 1m in height, whichever height is the greater. It is clear from the existing and proposed plans submitted with the application that the proposed fence, as improved and gate, as relocated, would be greater than one metre in height and in the case of the fence exceed its former height, thus neither the fence or relocated gate which lie adjacent to a highway used by vehicular traffic, would be permitted by Class A, Part 2 of the GPDO and express planning permission is required.

Conclusion

8. For the reasons given above I conclude, on the evidence now available, that (a) the Council's refusal to grant a certificate of lawful use or development in respect of the replacement of the existing UPVC windows and doors in the property with new grey UPVC framed windows and doors, and to renovate the existing external walls of the house with white insulated render is not well-founded and the appeal should succeed for that part of the development only; and (b) the Council's refusal to grant a certificate of lawful use or development in respect of relocation of side entrance gate in line with the front wall of the building to enclose the front door (on left hand side) behind the fence/gate and increase height of existing fence along Havelock Road by 500mm, 750mm and 1100mm (at various locations) is well-founded and the appeal for that part of the development should fail. I will exercise the powers transferred to me under section 195(2) and 195(3) of the 1990 Act as amended.

Elizabeth Pleasant

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 27 May 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

- The replacement of existing windows/doors with new UPVC windows/doors coloured grey would not materially affect the appearance of the building and thus having regard to section 55 (2) (ii) of the Town and Country Planning Act, 1990 (as amended) would not be development.
- Renovating the existing walls of the dwellinghouse with white insulated render would be an improvement and alteration to the dwelling which is permitted under Class A, Part 1, Schedule 2, Article 3 of the General Permitted Development (England) Order, 2015, as amended.

Signed

Elizabeth Pleasant

Inspector

Date: **17 September 2026**

Reference: APP/T2215/X/25/3372973

First Schedule

Replacement of the existing UPVC windows and doors in the property with new grey UPVC framed windows and doors, and to renovate the existing external walls of the house with white insulated render.

Second Schedule

Land at 145 Dartford Road, DARTFORD, DA1 3EW

Plan

This is the plan referred to in the Lawful Development Certificate dated: **17 September 2026**

by **Elizabeth Pleasant**

Land at: **145 Dartford Road, DARTFORD, DA1 3EW**

Reference: **APP/T2215/X/25/3372973**

Scale: Not to Scale



IMPORTANT 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.