



Appeal Decision

Site visit made on 23 July 2026

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2026

Appeal Ref: APP/A1910/X/26/3377958

Land at 1 The Orchard, Kings Langley WD4 8JR

- 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 Kedgling Developments against the decision of Dacorum Borough Council.
 - The application ref 25/02577/LDP, dated 15 October 2025, was refused by notice dated 17 December 2025.
 - The application was made under section 192(1)(a) and (b) of the Town and Country Planning Act 1990 (as amended).
 - The matters for which a certificate of lawful use or development is sought is: Internal layout changes and insertion of two doors to change the property from a dwelling house (Class C3) to 6 person HMO (Class C4).
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Summary Decision: The appeal is allowed in part in the terms set out in the formal decision, otherwise the appeal is dismissed.

Applications for costs

1. An application for costs was made by Kedgling Developments against Dacorum Borough Council. This application is the subject of a separate decision.

Preliminary Matters

2. This appeal has been determined together with another appeal relating to the same site, appeal reference 6005320. This appeal is the subject of a separate decision; the appeals were not formally linked. However, the appellant submitted a joint statement for both appeals. I have, therefore, had regard to this statement when determining both appeals.
3. The description of the matters for which the LDC is sought is taken from the appeal form, which replicates what was stated on the Council's decision notice. Having regard to the reason for refusal of the application, it is clear that what is proposed includes both physical works to the appeal property, as well as a change of use. The LDC application was, therefore, made under both sub-sections (a) and (b) of section 192(1) of The Town and Country Planning Act 1990 as amended (the 1990 Act).
4. At the time of my visit the appeal property appeared to have been in the process of undergoing a series of building works. Those works appeared to have halted and the property did not appear to be occupied. Whilst I did not see inside the building, I do not consider this necessary for the purposes of determining this appeal. I could, however, see most of the external areas and the external elevations of the building, including those subject to the proposed external works described in the LDC application.

5. The change of use proposed is a change from a dwellinghouse, a use that falls within Class C3 of Part C, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended (the 1987 Order), to a 6 person HMO, a use that falls within Class C4 of Part C.
6. As for the proposed physical works, the description of the matters for which the LDC is sought includes reference to internal layout changes. The plans submitted with the LDC application include what is referred to as 'Proposed Floor Plans'. These show a layout consistent with a HMO with 6 bedrooms. The submitted plans do not, however, include existing layout plans, such that I could compare the existing layout with what is proposed in order to understand what internal layout changes are proposed. Furthermore, what was submitted with the LDC application does not include a description of the internal changes. Nevertheless, I must determine the appeal, but will do so on the basis of the information before me.
7. Turning to the proposed external works, the description includes the insertion of two external doors in the side (east facing) elevation of the rear outrigger. I could, however, see that the proposed external doors on the east facing elevation had not been inserted at the time of my visit.
8. I note that the reason for refusal of the LDC application subject of this appeal includes reference to the insertion of a window. This is not, however, included in the description of the matters for which the LDC is sought, and it is not obvious from the appellant's submissions that the insertion of the window is part of the proposal. I will not, therefore, determine whether the insertion of a window would be lawful.

Main Issue and Main Considerations

9. Section 192(2) of the 1990 Act indicates 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; and in any other case they shall refuse the application. The planning merits of the proposal and its compliance with local and national policy and guidance is not relevant to my determination of the appeal. My decision is based on the facts of the case and judicial authority. The main issue is whether the Council's decision to refuse to grant a LDC is well founded.
10. Having regard to the case made by the parties, the matters to be considered in this case include:
 - Whether or not the internal alterations to the building comprise development, for the purposes of section 55(1) of the 1990 Act;
 - Whether or not the external alterations comprising the insertion of two external doors would have the benefit of permission granted by reason of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order); and
 - Whether or not the change of use from a dwellinghouse to a 6 person HMO would have the benefit of the permission granted by the 2015 Order.
11. The test of the evidence is the balance of probabilities, and the burden of proof is on the appellant.

Reasons

Internal layout changes

12. As I note above, I have been provided with a layout plan entitled 'Proposed Floor Plans', which shows a layout consistent with a 6 person HMO. However, as I also note above, the appeal has not been submitted with a layout plan of the property as it exists at present or a description of the works proposed that comprise the 'internal layout changes'. There is, therefore, little before me to assist in understanding what comprises the internal layout changes referred to in the description of the matters for which the LDC is sought.
13. Section 55(1) of the 1990 Act informs that development includes the carrying out of building or other operations in, on, over or under land. Section 55(1A) informs that building operations includes, amongst other matters, operations normally undertaken by a person carrying on business as a builder. 'Internal layout changes' suggests that building operations might well be carried out and that these may be carried out by a person carrying on business as a builder. Section 57 informs that, subject to provisions listed, planning permission is required for the carrying out of any development of land.
14. Notwithstanding the above, section 55(2)(a)(i) of the 1990 Act informs that operations that comprise any building works which affect only the interior of a building shall not be taken for the purposes of the 1990 Act to involve the development of land.
15. It may well be the case that what the appellant has in mind when referring to internal layout changes falls within section 55(2)(a)(i) of the 1990 Act. However, I have no means of establishing what comprises the internal layout changes proposed (i.e. what would change in order to achieve the layout shown on the submitted layout plan). As such, I am unable to conclude that, on the balance of probabilities, they would not involve the development of land, in accordance with section 55(2) of the 1990 Act, and would not, therefore, require the benefit of planning permission in accordance with section 57.
16. Accordingly, I am unable to conclude that the proposed internal layout changes would be lawful if they had been instituted or begun at the time of the LDC application.

Insertion of two doors

17. As I note above, the two external doors are proposed in the side (east facing) elevation of the rear outrigger. I note in the planning statement submitted with the application subject of the other appeal before me (appeal reference 6005320) a photograph of the former dwelling on the appeal site, which shows a single storey building with what appears to be accommodation within the roof space. The rear outrigger is not visible in this photograph and, as such, it is reasonable to say that it is an extension to the original dwelling.
18. The appellant suggests that the proposed door openings would benefit from the permission granted by Class A, of Part 1, Article 3, Schedule 2 of the 2015 Order (hereafter referred to as Class A). Class A permits the enlargement, improvement or other alteration of a dwellinghouse.

19. The Council's officer report for the LDC application points to the provisions of Article 3(4) of the 2015 Order, which informs that 'nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 or Part 13 of the Act otherwise than by this Order'. The Council refer to condition 1 of planning permission 23/02402/FHA, which relates to the appeal site. This condition states that the development permitted shall be carried out in accordance with the plans listed. In pointing to this condition, the suggestion is that the rear outrigger has not yet been carried out in accordance with the requirements of this condition and, as such, the condition has not been discharged. The indication is, therefore, that the development would not benefit from the permission granted by Class A as the proposed works would prevent the rear extension from being completed in accordance with the plans condition and would, therefore, be contrary to the requirements of this condition.
20. The appellant appears to agree that the 23/02402/FHA permission is the relevant permission in this case and does not dispute that the rear extension, within which the two door openings are proposed, has not been carried out in accordance with condition 1 of this permission. They do not, however, agree that this would prevent the operation of Class A. They also suggest that none of the conditions of the 23/02402/FHA permission prevent the operation of Class A as they do not remove the permitted development rights granted by this class of the 2015 Order.
21. Before I consider what is between the parties on this matter, I consider first whether, despite the parties' agreement, the 23/02402/FHA permission is indeed the relevant permission for the rear outrigger and, therefore, relevant for determining whether the proposed alterations to it would be lawful.
22. In the officer report the Council say that planning permission 21/02796/FHA, along with subsequent applications made under section 73 and section 96a of the 1990 Act¹ (hereafter referred to as the '2021 Approvals'), grants permission for the rear outrigger. The planning history indicates that the 21/02796/FHA permission is for the 'removal of garage, reduction in ground level to create a level garden (maximum reduction 1400mm) and construction of 8m split level rear extension'. The latter element of this description fits with the rear outrigger extension. Notwithstanding this, the Council goes on to say that 'the works approved under the retrospective application [23/02402/FHA] effectively combined the permissions approved under 21/02796/FHA and its subsequent amendments and those approved under 21/02320/UPA'. The report notes that 21/02320/UPA approved 'works to add the additional storey to the main part of the dwelling'. This is why the Council suggest that regard should only be had to the 23/02402/FHA permission for the purposes of this appeal.
23. I have been provided with the plan listed in condition 1 of the 23/02402/FHA permission, which is an elevation plan of the building broadly consistent with the building I observed on site (albeit what I saw was clearly still subject to extensive building works). I will refer to this plan hereafter as the 'Approved Elevations Plan'. Whilst I note that this plan shows the elevations of the rear outrigger, it does not automatically follow that the 23/02402/FHA permission includes the grant of permission for this rear addition. The rear outrigger is an extension to the property that, at the time the 23/02402/FHA application was made, would have already had

¹ Applications reference 23/01321/NMA, 22/02398/ROC and 21/04141/NMA are referred to in the report.

- the benefit of permission, as noted in the officer report. Accordingly, I would expect for it to be shown on the 23/02402/FHA plans, which proposed further extensions to other parts of the building on site.
24. The 23/02402/FHA decision notice describes the development permitted as 'roof lights, roof, extra storey extension, side extension and porch'. This description does not include any additions or extensions to the rear of the property. The description includes reference to a 'side extension'. But the Approved Elevations Plan shows a flat roof element to the side of the building, which would fit with a description of a side extension.
 25. There is nothing in the decision notice to indicate that the rear outrigger extension forms part of the development permitted by the 23/02402/FHA permission. Neither is there anything to indicate that this development is altered in any way by this planning permission. The 23/02402/FHA permission grants permission for what is described in the decision notice, and nothing more. This permission does not, in my judgement, include the grant of permission for the rear outrigger.
 26. Notwithstanding the above, the parties refer to the 'Pilkington Principle', established in *Pilkington v SSE & Lancashire CC* [1973] 1 WLR 1527; [1973] JPL 711 and endorsed in *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30. The appellant suggests that the Pilkington Principle applies in this case in light of the 23/02402/FHA permission and that, as a result, the 'earlier permissions, and their conditions, cannot be relied upon to restrict subsequent development, nor can they be used to trigger Article 3(4) of the GPDO'.
 27. The above caselaw establishes that, where an original planning permission permits development that has either not been commenced, or has commenced but has not been completed, and where a later planning permission is granted for development that, if carried out, would be 'substantially at variance' with what is permitted by the earlier original permission, making it physically impossible to carry out or complete the development permitted by the original permission, the original permission cannot be relied upon to authorise further development that would be inconsistent with development carried out pursuant to the latter permission. This does not mean that the original permission would be rendered void or would be entirely superseded. Rather, it remains in effect for the development that has already been carried out. It would not, however, authorise any further development that is inconsistent with development carried out pursuant to the latter permission.
 28. I do not have the details of the 2021 Approvals before me. Nevertheless, having regard to the evidence that is before me, I have no reason to find that the grant of permission and construction of a side extension, porch and upwards extension would be incompatible or inconsistent with any element of what would have been permitted by the 2021 Approvals. I say this because it is not obvious to me that the erection of a side extension, porch and upwards extension of the building visible in the planning statement photograph would prevent or interfere in any way with the completion of the rear outrigger extension, particularly as works to erect it have already commenced and progressed to an advanced stage.
 29. For the above reasons, I conclude that the Pilkington Principle does not apply in this case. I cannot agree that the 23/02402/FHA permission is the only governing permission for the site. I also cannot agree that condition 1, or indeed any of the conditions of the 23/02402/FHA permission are relevant to whether or not the

insertion of two doors in the side elevation of the rear outrigger would be lawful. As I note above, the Council say that the 2021 Approvals grant permission for the rear outrigger. As there is nothing before me to indicate otherwise, I can only conclude that these grant permission for the rear outrigger extension and are the relevant permission for the purposes of proposed amendments to the rear outrigger. There is nothing to persuade me that the 2021 Approvals are no longer extant and that they are no longer capable of authorising the completion of the development they permit.

30. I turn, therefore, to the matter of whether or not the 2021 Approvals would mean that the development comprising the proposed door openings would not benefit from the permission granted by Class A, having regard to the provisions of Article 3(4) of the 2015 Order.
31. As I note above, I have not been provided with the 21/02796/FHA decision notice, the associated decisions or the full details of these permissions. Nevertheless, the planning history informs that the 22/02398/ROC application sought the 'variation of condition 2 (approved Plans)...attached to planning permission 21/02796/FHA'. This tells me that both the 21/02796/FHA and 22/02398/ROC permissions must be the subject of a plans condition. That this LDC application proposes the insertion of two doors in the rear outrigger also tells me that these two doors are not shown on the plans approved by reason of 21/02796/FHA or the subsequent 22/02398/ROC permission.
32. I can agree that a requirement to carry out a development in accordance with the approved plans is not the same as a requirement to complete a development as approved. A requirement to complete a development is an unqualified obligation on the developer to build what they have permission for in accordance with the approved scheme. By contrast, a requirement to carry out a development in accordance with approved plans imposes a conditional or qualified obligation. It requires that, if a development is undertaken, it must be undertaken to its completion in accordance with the approved plans.
33. I can agree with the appellant, that a plans condition alone would not prevent the operation of Class A in perpetuity, but that is provided that the condition has been discharged (i.e. that the development has been carried out in accordance with the approved plans, in compliance with the condition, such that the condition can be regarded as having been discharged). Otherwise, in circumstances where the development has commenced but has not been finished in a way that accords with the approved plans, any alteration to the development at that stage that deviates from the approved plans would prevent the development from being finished in a manner (i.e. carried out) in accordance with the approved plans. This would prevent compliance with the plans condition, contrary to the requirements of the condition. For this reason, Article 3(4) would be engaged.
34. In the case before me I cannot be satisfied that the relevant plans condition has been discharged. I say this because, in view of the condition of the rear outrigger as I observed it on site, it is reasonable to conclude that the development has not yet been fully carried out. Whilst I do not have the details of what was approved by reason of the 2021 Approvals, I find it unlikely that permission would have been granted for the rear outrigger in its current form. For example, the window openings in the extension are boarded over, and the external finish is of green blockwork that bares the manufacturer's logo. Furthermore, the appellant does not

dispute that the rear outrigger is not yet finished. In view of this, I cannot be satisfied that, on the balance of probability, the relevant plans condition that is the subject of either the 21/02796/FHA or subsequent 22/02398/ROC permissions has been discharged, such that the operation of Class A would not be prevented by Article 3(4).

35. In finding as I have above, I acknowledge that I do not have the relevant planning permission details and relevant plans condition before me. Nevertheless, it is for the appellant to demonstrate that the permission they say would be granted by Class A for the proposed alterations to the rear outrigger would not be prevented by Article 3(4) of the 2015 Order. The appellant has failed to discharge this burden of proof in this case.
36. It might well be the case that none of the conditions of the 2021 Approvals either remove the permitted development rights granted by Class A or expressly prohibit the insertion of new openings in development they permit. This does not change my conclusion that Article 3(4) of the 2015 Order would prevent the proposed alterations to the outrigger benefiting from the permission granted by Class A, on the balance of probabilities.
37. I note the findings of the previous Inspector on the appeal decisions² which relate to this site. Appeal A in that case relates to an LDC application for works including the 'insertion of two doors'. There is also reference on Appeal A to the 21/02796/FHA permission. The proposal in that case appears, therefore, similar to that before me. Many of the matters considered in that Appeal A are similar to the points made in the case before me. I note that the Appeal A in that case was dismissed. There is nothing to indicate that my decision in this case should be any different with regard to the proposed door openings.
38. Relevant to a point made by the appellant in this case, the Inspector refers at paragraph 20 to the discretion the Council has 'over whether to take enforcement action or not because something does not fully accord with approved plans'. They say that 'the same latitude does not apply to an LDC. Either the development would be lawful at the date of the LDC application or it would not'. I can only agree with this position.
39. Brining all of the above together, I cannot conclude that the proposed insertion of two doors would be lawful if they had been instituted or begun at the time of the LDC application.

Change of use

40. Despite the current condition of the appeal property, there is no suggestion that the existing use of it is not as a dwellinghouse, a use falling within Class C3 of the 1987 Order, and that this use of the appeal property was not lawful at the time the LDC application was submitted.
41. Although there is no suggestion that the change of use of the appeal property from a dwellinghouse to a 6 person HMO would not be a **material** change of use for the purposes of section 55(1) of the 1990 Act, there is no dispute that this development would have the benefit of the permission granted by Class L of Part 3, Article 3, Schedule 2 of the 2015 Order (hereinafter referred to as Class L). Indeed, the

² Appeal Decisions APP/A1910/X/24/3338702, APP/A1910/W/23/3326421, APP/A1910/W/24/3342737, APP/A1910/W/24/3343237 & APP/A1910/W/24/3349857.

reason for refusal of the LDC application says that 'The change of use of the dwelling from a C3 use to a C4 use would be lawful'. I have no reason to disagree with this.

42. The appellant says that, in light of the Council's position on this matter, it should have issued a split decision in this case and granted an LDC for the change of use alone. Whilst I note that the appellant has invited me to do the same in this case, I am mindful that the application subject of this appeal has been made under section 192 of the 1990 Act for proposed development. The provisions of section 192(2) set out the circumstances under which a certificate may be issued for proposed development. It informs that if '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'. These powers to issue a certificate extend to an Inspector on an appeal by reason of section 195(2).
43. The provisions of section 192(2) differ from those under section 191(4) of the 1990 Act, which relates to applications for LDCs for existing, rather than proposed development. Section 191(4) allows for the local planning authority (and an Inspector on an appeal) to issue a certificate for existing matters described in the LDC application. It also allows in the alternative to issue a certificate with a description as modified by them, or a description substituted by them. As such, the powers to issue a certificate are more extensive than in a section 192 application.
44. As the matters for which an LDC can be issued in a section 192 application are more limited, whether an LDC can be issued in respect of part of what is proposed is not straightforward. Where a proposal comprises more than one element, it is possible to issue a certificate on a section 192 application (or subsequent appeal) where part of what is proposed is found lawful, but only where the element found lawful is genuinely severable from the other elements of the proposal. By this I mean that the elements of the proposal would comprise two or more distinct forms of proposed development.
45. With this in mind, whilst the LDC application in this case proposed three elements, it would appear that the proposed 'internal layout changes' and the proposed 'insertion of two doors' are required 'to change the [use of the] property from a dwelling house (Class C3) to 6 person HMO (Class C4). This description could be read as a single composite proposal. As such, I have sympathy with the Council's decision to refuse the LDC application in its entirety.
46. In their appeal submissions, the appellant maintains the position that all elements of the proposal are lawful. However, they say that the Council should have issued a certificate in respect of the change of use. The indication is that, despite how the appellant described the proposal in the LDC application, they view the 'internal layout changes' and the 'insertion of two doors' as severable and distinct from the change of use.
47. As an aside, there is nothing to indicate that permission would not be granted by Class L if, for example, permission for development necessary to facilitate the change of use had not been obtained.
48. All of the above considered, I conclude that the change of use of the appeal property from a dwellinghouse to a 6 person HMO would be lawful if it had been

instituted or begun at the time of the LDC application. Despite the description of the proposal and the limitations imposed on the grant of a certificate by section 192(2) of the 1990 Act, I am satisfied that, having regard to the evidence now available, the proposed change of use is severable from the other elements of the proposal and that I am able to issue a certificate in this case for part of what is proposed. I have reached this conclusion, having regard to the appellant's appeal submissions.

49. In granting an LDC, it is necessary to make some minor changes to the description of the use that I will certify as lawful in the certificate. This includes clarifying that the 'change' is a 'change of use' and quoting the full reference to the relevant class of the 1987 Order within which the existing and proposed uses fall. I am satisfied that I am able to make these changes as they will not modify this element of the matter for which the certificate was sought. This clarification is necessary for the certificate to be precise, in accordance with the advice at paragraph 010 of the Planning Practice Guidance on Lawful development certificates.

Conclusion

50. 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 a change of use of the property from a dwelling house (Class C3) to a 6 person HMO (Class C4) 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 internal layout changes and the insertion of two doors 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.

Formal Decision

51. The appeal is dismissed in so far as it relates to internal layout changes and the insertion of two doors. The appeal is allowed in so far as it relates to a change of use of the property from a dwelling house (Class C3) to a 6 person HMO (Class C4) and attached to this decision is a certificate of lawful use or development describing the proposed change of use which is found to be lawful.

J Moss

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 15 October 2025 the use 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 reason:

Having regard to the evidence, the proposed change of use of the property from a dwellinghouse, a use that falls within Class C3 of Part C, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended (the 1987 Order), to a 6 person HMO, a use that falls within Class C4 of Part C, Schedule 1 of the 1987 Order would be development permitted by Class L of Part 3, Article 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Accordingly, the proposed change of use would have been lawful if it had been instituted or begun at the time the Lawful Development Certificate application was made.

Signed

J Moss

Inspector

Date: **08 October 2026**

Reference: APP/A1910/X/26/3377958

First Schedule

The change of use from a dwellinghouse, a use falling within Class C3 of Part C, Schedule 1 of the 1987 Order, to a 6 person HMO, a use falling within Class C4 of Part C, Schedule 1 of the 1987 Order.

Second Schedule

Land at 1 The Orchard, Kings Langley WD4 8JR.

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 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 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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: 8 October 2026

by J Moss BSc (Hons) DipTP MRTPI

Land at: 1 The Orchard, Kings Langley WD4 8JR

Reference: **APP/A1910/X/26/3377958**

Scale: Not to scale

