

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/01662
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	1 Hazel End, Royal Wootton Bassett, Swindon, SN4 7ET
DEVELOPMENT DESCRIPTION:	Loft conversion with a rear dormer.
RECOMMENDATION:	Refuse

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed loft conversion with a rear dormer.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute "permitted development" (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as "the GPDO"].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The application has been assessed against the relevant criteria set out in Schedule 2, Part 1, Class B of the GPDO 2015 (as amended).

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
N/90/01327/FUL - Full planning permission Decision - Approved Date: 12/7/1990 – NEW PITCHED ROOF TO EXISTING REAR 2 STOREY FLAT ROOFED EXTENSION
PL/2024/02903 - Householder planning permission Decision - Approve with Conditions Date: 16/9/2024 – 6ft fence one metre away from the highway.

PL/2024/04030 - Householder planning permission Decision - Approve with Conditions Date: 12/7/2024 – Retrospective application for a single storey rear extension and a porch to front elevation.
N/80/0523/F - Historic apps 1974 to 1983 Decision - Approve Date: 23/6/1980 – Domestic garage and vehicular access

ASSESSMENT AND CONCLUSION

1 Hazel End is a two-storey modern dwelling externally constructed of red bricks with concrete tiled roof along with white upvc windows and doors of varying size and design. The property is not Listed or subject to an Article 4 Direction. The site is not situated within the Royal Wootton Bassett Conservation Area or within a designated National Landscape (formerly Area of Outstanding Natural Beauty) also referred to in the legislation as Article 2/3 land. The planning history available for the property indicates that permitted development rights remain intact. The property has been extended over time, and a hipped roof was added to a previously built two storey extension which added volume to the original roof.

The proposal seeks to utilise permitted development rights under Part 1 Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to convert the loft via a rear flat roofed dormer extension.

The proposed dormer window would have an overall width of approximately 8.4 metres, a depth of approximately 2.9 metres and height of approximately 2.15 metres.

Calculations have been provided by the agent that appear to confirm that the combined additional volume added by the proposed dormer window and the two-storey extension roof would not exceed 50 cubic metres. However, this information is not sufficiently clear, precise, and unambiguous to demonstrate the total additional volume proposed is within the 50 cubic metre allowance.

Details have also been provided from the agent regarding the existing and proposed materials. The existing roof materials are concrete tiles and the proposed material for the dormer window would be grey narrow horizontal cladding. Condition B.2(a) indicates that the materials used in any exterior work should be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The Permitted Development Rights for Householders 2019 further explains that *'the face and sides of a dormer window should be finished using materials that give a similar visual appearance to existing house. So, the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level.'* Taking the above into consideration the proposal would fail to meet the criteria set out in Condition B.2 (a)

Having completed the detailed assessment checklist at Appendix 1 and 2 and based on the submitted plans, supporting information, and a review of relevant constraints (including planning history, Article 4 Directions, and any planning conditions), it is concluded that:

The proposed development does not fall within the scope of permitted development, as it fails to meet one or more of the limitations or conditions set out within the relevant class of the GPDO. Specifically: Class B.1 (d)(ii) and (iii), and B.2(a)

The proposed development is not considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that the Certificate of Lawfulness for Proposed Development be REFUSED for the following reasons:

Reason for refusal:

The proposed development does not meet the criteria for permitted development under Schedule 2 Part 1 Class B B.1 (d)(ii) and (iii) as the information provided is not sufficiently clear, precise, and unambiguous to demonstrate the total additional volume proposed is within the 50 cubic metre allowance.

The proposed development does not meet the criteria for permitted development under Schedule 2, Part 1 Class B B.2 (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the proposed external materials would not be similar in appearance to those used in the construction of the exterior of the existing dwelling house.

Therefore, planning permission is required.

APPENDIX 1 –

Checklist for Householder permitted development under Parts 1, 2 or 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal. If not, then proceed to complete the relevant checklist(s) at Appendix 2, 3 and 4.

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?	NO	
Is there a condition removing PD rights for a class within which the proposal falls?	NO	

Constraint	Yes/No/N/A	Notes
For the purposes of Part 1, is the property a flat or maisonette?	NO	Flats do not benefit from Part 1 PD rights

APPENDIX 2 –

Checklist for Householder permitted development under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Class B – The enlargement of a dwellinghouse consisting of an addition or alteration to its roof		Yes
If yes answer questions below, if no skip to Class C		
Criteria (B.1) – Development is not permitted if:		
(a)	Was the permission to use the dwellinghouse granted Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule?	No
(b)	Would the roof height be increased beyond the highest part of the existing roof?	No
(c)	Would the enlargement extend beyond the plane of the roof slope forming the principal elevation and facing a highway?	No
(d)	Would the cubic content of the resulting roof space exceed the cubic content of the original roof space by more than 40m ³ (terraced) or 50m ³ (other)?	Insufficient information
(e)	Would it include the (i) construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or, the installation, alteration or replacement of a chimney, flue or soil and vent pipe?	No
(f)	Is the dwellinghouse is on article 2(3) land?	No
(g)	Was the dwellinghouse built under Part 20 of this Schedule?	No
(h)	Was the dwellinghouse enlarged by virtue of permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys)?	No

Criteria (B.2) – Development is permitted by Class B subject to the following conditions:		Yes/No
(a)	Are the materials used in any exterior work of a similar appearance?	NO
(b)(i)	Is the proposal a hip-to-gable enlargement or a junction with a rear/side extension? (If yes, B.2(b)(i) does not apply.)	NO
(b)(i)(aa)	Where applicable, are the eaves of the original roof maintained or reinstated?	YES
(b)(i)(bb)	Where applicable, is the edge of the enlargement at least 0.2m from the eaves, measured along the roof slope from the outside edge of the eaves?	YES

Criteria (B.2) – Development is permitted by Class B subject to the following conditions:		Yes/No
(b)(ii)	Where applicable, does no part of the enlargement extend beyond the outside face of any external wall of the original dwellinghouse?	NO
(c)	Would any upper-floor windows in side elevation be non-obscure/non-fixed shut below 1.7m?	N/A