

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/02901
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	17 Beale Road, Tidworth, SP9 7WN
DEVELOPMENT DESCRIPTION:	Certificate of lawfulness for proposed loft conversion with rear flat roof dormer
RECOMMENDATION:	Permitted Development

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 rear flat roof 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, Classes A–H 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
15/03338/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 19/11/2015 – Variation of Condition nos. 4, 6, 7 and 30 of Planning Permission E/09/1078/OUT to allow enlarged school site in place of housing with displaced housing

in place of equipped casual play spaces; revisions to Ludgershall roundabout access and revised phasing

15/05084/REM - Reserved Matters Decision - Approve with Conditions Date: 19/11/2015 – Reserved matters application for appearance, landscaping, layout and scale for residential parcels known as Phase 2 for 311 units (following approval of outline application 15/03338/VAR)

19/04306/DOC - Approval of details reserved by a condition Decision - Approved Date: 25/6/2019 – Discharge of condition 7 of 15/05084/REM (connection to Right of Way)
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E/09/1078/OUT - Outline Planning Decision - Approve with Conditions Date: 22/11/2012 – Outline planning application for 600 civilian houses, primary school, link road and landscaped public open spaces.
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K/59803/O - Outline Planning Decision - Withdrawn Date: 16/1/2013 – 500 no. dwellings comprising 350 military and 150 civilian with associated garages, parking and landscaping at North East Quadrant
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ASSESSMENT AND CONCLUSION

The proposal seeks to utilise permitted development rights under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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:

Permitted Development (Lawful)

The proposed development does fall within the scope of permitted development, as defined under Schedule 2, Part 1, Classes B & C of the GPDO. It meets all relevant limitations and conditions, and no restrictions (such as Article 4 Directions or planning conditions) are in force that would remove the permitted development rights relied upon.

The proposed development is considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Proposed Development be GRANTED for the following use/development:

Reason for approval: The proposed development is deemed lawful under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the proposal is in accordance with relevant statutory provisions and does not require planning permission.

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	
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/No
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 50m³ (other)?	NO
(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?	YES
(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.)	YES
(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
(b)(ii)	Where applicable, does no part of the enlargement extend beyond the outside face of any external wall of the original dwellinghouse?	YES
(c)	Would any upper-floor windows in side elevation be non-obscure/non-fixed shut below 1.7m?	N/A

Class C – Any other alterations to the roof of a dwellinghouse		Yes/No
If yes answer questions below, if no skip to Class D		
Criteria (C.2) – 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 alteration protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof?	NO
(c)	Would the roof height be increased beyond the highest part of the existing roof?	NO
(d)	Would it include the construction or provision of a veranda, balcony or raised platform, or the installation, alteration or replacement of solar photovoltaics or solar thermal equipment?	NO
(e)	Was the dwellinghouse built under Part 20 of this Schedule?	NO

Criteria (C.2) – Development is permitted by Class C subject to the following conditions:	Yes/No
Are side-facing upper floor windows obscure-glazed and fixed shut below 1.7m?	YES
Are materials similar in appearance to existing dwellinghouse?	