

Delegated Report

Lawful Development Certificate (Existing)

Application no:	20241049
Location	Woodlands Gravesend Road Higham Rochester
Proposal:	Application for an Existing Lawful Development Certificate; Erection of part single storey, part two storey rear extension and hip to gable end loft conversion with installation of front and rear dormers and balcony.
Applicant:	Mr Richard Prior
Site Visit	26 February 2025

Plans & Documents

Application form for a Lawful Development Certificate for an Existing Use or Development;
Drawing no. 2020-11-03-WOOD-001 Rev. A Existing elevations, layouts and OS plan;
Drawing no. 2020-11-03-WOOD-002 Rev. J Proposed layouts and 3D view;
Drawing no. 2020-11-03-WOOD-003 Rev. J Proposed elevations and 3D view;
Drawing no. 2020-11-03-WOOD-004 Rev. A Proposed block plan and site location plan;
Existing block plan;
Parking plan; and
14 photographs.

Property Type

The property comprises of a detached, two storey dwelling set in a large plot.

Legislation

The Town and Country Planning Act (1990) Section 191: Certificate of lawfulness of existing use or development (as amended).

Material Consideration

National Planning Practice Guidance <https://www.gov.uk/guidance/lawful-development-certificates>

Relevant Planning History

Reference	Description	Decision	Decision Date
20211090	Application for non-material amendment to planning permission reference number 20210132 to allow an additional window to the side elevation and skylights to the roof.	Withdrawn	04.10.2022

20210132	Erection of part single storey, part two storey rear extension and hip to gable end loft conversion with installation of front and rear dormers and balcony.	Permitted	19.05.2021
19990650	Erection of a conservatory at the rear.	Permitted	06.03.2000
19990423	Erection of a conservatory at the rear (north elevation)	Refused	12.08.1999
19980748	Application for the variation of condition (7) of planning permission ref. no. GR/98/494, relating to the demolition of the detached garage and workshop; erection of two storey side extension; and alteration to roof of single storey side extension to form balcony, to allow the demolition of the detached garage to take place after the completion of the building works and retention of the workshop/shed.	Permitted	17.02.1999
19980494	Demolition of the detached garage and workshop; erection of two storey side extension to form integral double garage and family room with two bedrooms and ensuite bathrooms over; and alteration to the roof of the single storey side extension on the western elevation to form balcony.	Permitted	16.11.1998

Consultations, Publicity and Representations

This is an application for a Lawful Development Certificate (LDC) that is considered on its facts and relevant planning law. As confirmed in national planning guidance, views expressed by third parties on the planning merits of such cases are irrelevant. Accordingly, unlike planning applications, there is no statutory requirement to undertake publicity or consultation.

The Development

This Lawful Development Certificate (LDC) application seeks to establish whether the existing balcony at the application site is lawful and whether the balcony works constitute the commencement of planning permission reference 20210132.

Officer Assessment

General approach

The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009). This application is for an LDC and not for a planning permission. As such, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests with the applicant and the evidence submitted must be sufficiently precise and unambiguous to enable the Local Planning Authority to understand exactly what is involved. The decision must be made on the balance of probability.

The applicant alleges that works pursuant to planning permission reference 20210132 were commenced on 01 June 2021 and that the initial works comprised of the construction of the side balcony, which was completed in January 2022. He considers that, as the balcony works benefit from planning permission 20210132, they are lawful and that no further approvals or permissions would be required in order to complete that development.

The applicant has submitted evidence, which is set out above and the case officer has gathered the following information, which will also be taken into consideration in the determination of this application;

- Extracts from delegated report for application reference 20210132 (Appendix 1)
- Google Earth and Google Street View images (Appendix 2)
- Information from the case officer's site visit (Appendix 3)

Status of planning permission reference 20210132

Planning permission reference 20210132 was granted on 19 May 2021 for the erection of a part single storey, part two storey rear extension and a hip to gable end loft conversion with the installation of front and rear dormers and a balcony. Four conditions were attached to the planning permission.

Condition 1 required the development to be begun within three years of the date of the permission, i.e. by 19 May 2024. Condition 2 required the development to be carried out in accordance with the following approved plans;

- Application form (Received 05 February 2021);
- Drawing No 2020-11-03-WOOD-001 Rev A - Existing Elevation, Floor and Site Location Plans (Received 16 February 2021);
- Drawing No 2020-11-03-WOOD-002 Rev J - Proposed Floor, Roof and 3D View Plans (Received 18 February 2021);
- Drawing No 2020-11-03-WOOD-003 Rev J - Proposed Elevations & 3D view Plan (Received 17 February 2021); and
- Drawing No 2020-11-03-WOOD-004 Rev A - Proposed Block and Site Location Plan (Received 17 February 2021).

Condition 3 required the external facing materials to match the elevation(s) to which the extension was to be added and condition 4 required the proposed window(s) in the flank elevation of the extension to be glazed with obscure glass, fixed shut and permanently retained as such.

Therefore, provided that the development was commenced prior to the 19 May 2024 and was undertaken in accordance with the four conditions, then planning permission 20210132 would be considered extant.

Analysis of evidence

The applicant has provided photographs to illustrate the works that have been undertaken to construct the balcony on the western side elevation. In addition, he has confirmed that these works were commenced on 01 June 2021 and were complete by January 2022. The Google Earth and Google Street View images contained in Appendix 2 illustrate that works on the western elevation of the building were undertaken between 23 April 2020 and 31 January 2022, which corroborates the applicant's contentions.

At the case officer's site visit, it was noted that the balcony works are almost complete with the need for a railing appearing to be the only outstanding issue. The external facing materials for the walls match with the existing (painted render). The site visit note and photographs are contained in Appendix 3.

The plans illustrating the proposed extensions/alterations to the dwelling submitted with this LDC application are the same as those listed as approved in condition 2 of planning permission 20210132 and the balcony works that have been undertaken are in accordance with them. Furthermore, the external facing materials used in the balcony works match those on the existing building. As such, it is considered that the balcony works are lawful and constitute the commencement of planning permission 20210132.

It is noted that the balcony that has been constructed at the application site has actually been permitted under two planning permissions, references 19980494 and 20210132. The following images show the front and western side elevations of the application property at the time that planning application 20210132 was determined and the relevant part of the 19980494 approved drawing;



The delegated report for application 20210132 made reference to the duplication of works (Appendix 1 contains the relevant extracts) in its assessment of the proposal. This duplication does not alter the fact that the balcony works constitute the commencement of planning permission 20210132.

Conclusion

Having reviewed all of the information submitted by the applicant and gathered by the case officer, it is considered that sufficient evidence has been provided to conclude, that on the balance of probabilities, the works to erect a balcony at the application site were lawful and implemented planning permission 20210132. As such, planning permission 20210132 is extant and the remaining development works under that permission can be undertaken.

The Borough Council is therefore satisfied that the development is therefore lawful by reason of section 191(2)(a) of the Town and Country Planning Act 1990 (as amended) and a Certificate of Existing Lawful Use can be granted.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Mrs Kelly Joyce	Team Leader:	Mrs Faye Walsh
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Signed:	K Joyce	Signed:	Jusaboh
Dated:	26th February 2025	Dated:	26 February 2025