



**BROWN BOOTS TOWN PLANNING**

## **Planning Statement**

**Proposal:** Certificate to confirm existing roof windows have been in place for over 4 years.

**Site:** 61 Warren Road, Ickenham UB10 8AD

**Local Planning Authority:**

London Borough of Hillingdon

**Prepared by**

**Matt Brown**

**Brown Boots Town Planning on  
18/11/2025**

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## **1. Introduction.**

1.1 This statement has been prepared on behalf of Mr Baljinder Panesar owner of 61 Waren Road, Ickenham in support the Certificate of Lawfulness application made under 191 of the Town and Country Planning Act 1990 to confirm that the existing roof windows are lawful as they have been in place for a period greater than 4 years.

1.2 The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

1.3 When this change was enacted, transitional measures were also put in place based on when the breach took place.

If the breach took place prior to 25 April 2024:

-Change of use of a building, or part of a building, to use as a single dwelling house - Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken.

Operational development relating to building, engineering or mining - Enforcement action can no longer be taken from four years, beginning the date where the operations were substantially completed.

1.4 In short, the development has been in situ since the building works were (formally) completed on 14th November 2019.

## 2. Application Site and History

2.1 The property subject to this application relates to a detached property on the north side of Warren Road, Ickenham.

2.2 The property has been extended extensively and was in the main built out in accordance with plans approved by Planning Inspector under decision APP/R5510/D/14/22200009.

2.2 It is important to note that the Inspector included a condition which reads as follows,

*“4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and reenacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the side elevations.”*

2.3 The extension was completed on 14<sup>th</sup> November 2019 in as stated by the Building Regulations completion certificate. (Appendix A completion certificate). In short the owner installed windows in the roof planes, unaware that this was contrary to the requirements of Condition 4 which specifically withdrew permitted development rights for windows in the side elevations.(the condition did not specify side roof elevations and that is possibly where the confusion rests.

2.4 The building works were complete as of 14<sup>th</sup> November 2019 and has been in place over 6 years.

### **3. Proposal**

3.1 Application is made to the London Borough of Hillingdon for a certificate of lawfulness (191) for existing development.

3. 2 It can be demonstrated that the windows in the roof and have been in situ for a period of more than 4 years..

3.3 As such the Council of the London Borough of Hillingdon, are hereby asked to certify that the development as built is LAWFUL within the meaning of Section 191 of the Town and Country Planning Act (as amended) for the reason(s) set out in Schedule B.

## 4. Detailed Consideration and suite of evidence

4.1 Evidence for this case is consistent and coherent and illustrates that the property has had windows in the roof since the extensions were complete on 14<sup>th</sup> November 2019.

4.3 Section 191 (2) of the Town and Country Planning Act 1990 states that uses and operations are lawful at any time if,

(a) no enforcement action may then be taken in respect of them and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no enforcement notice in place.

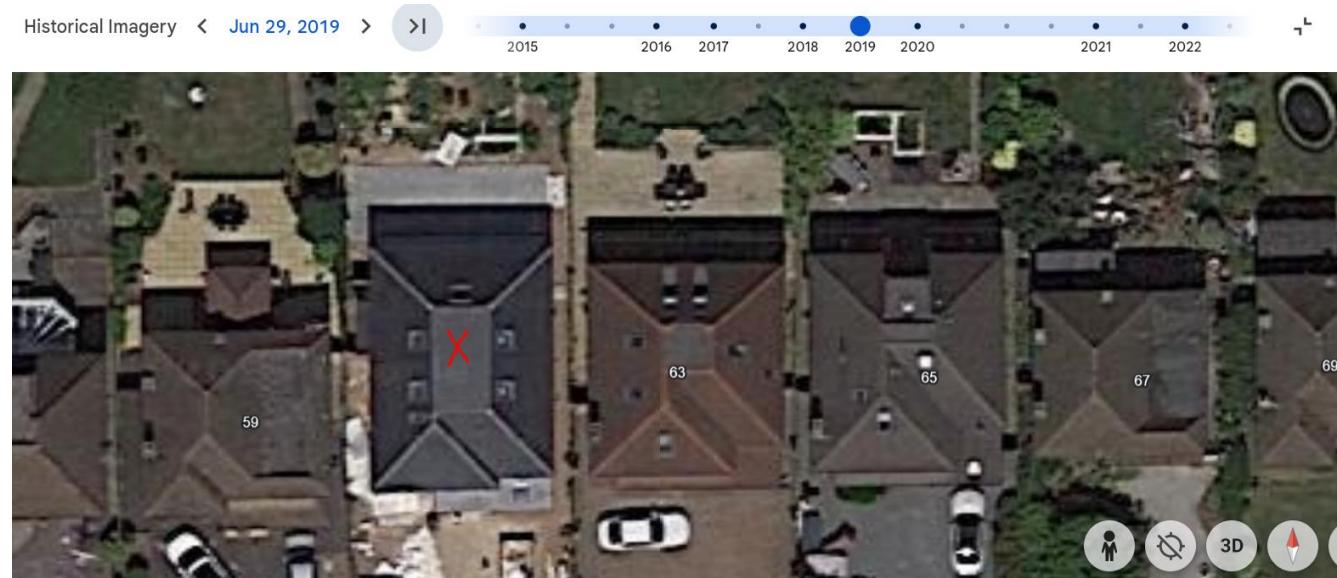
4.4 The legislation places the onus of proof in an application for a Lawful Development Certificate on the applicant. The test for the evidence is the balance of probability and the Courts have held that in a case such as this the onus of proof lies with the applicant.

4.5 Section 55 of the Town and Country Planning Act 1990 (as amended) defines development as “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”.

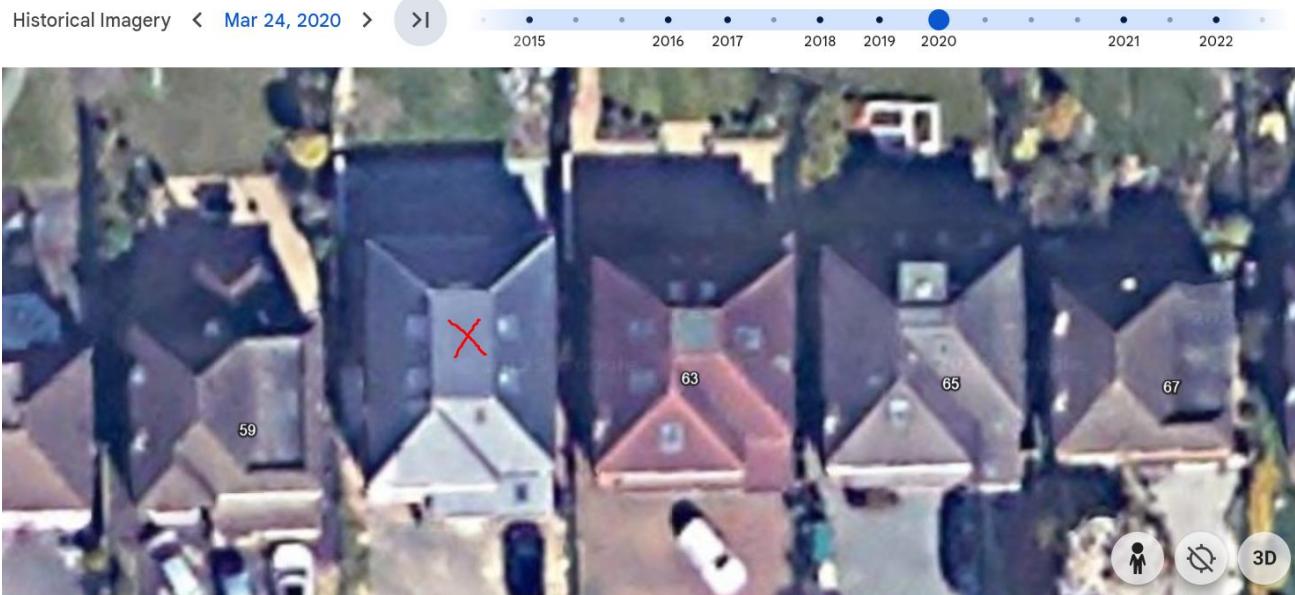
4.6 The application should be assessed in accordance with the four year limitation period set out in Section 171B (2) Town and Country Planning Act 1990 (As amended). It is imperative to note that an Enforcement Notice has **not** been served by the Local Authority with regards to the use of the building up to this date. The applicant wishes to regularise the development.

4.7 Overwhelming evidence which is readily available via google earth and demonstrates, firstly that the breach took place prior to March 2019 and finally shows the windows in the roof were clearly in place on 29<sup>th</sup> June 2019 and in the years since.

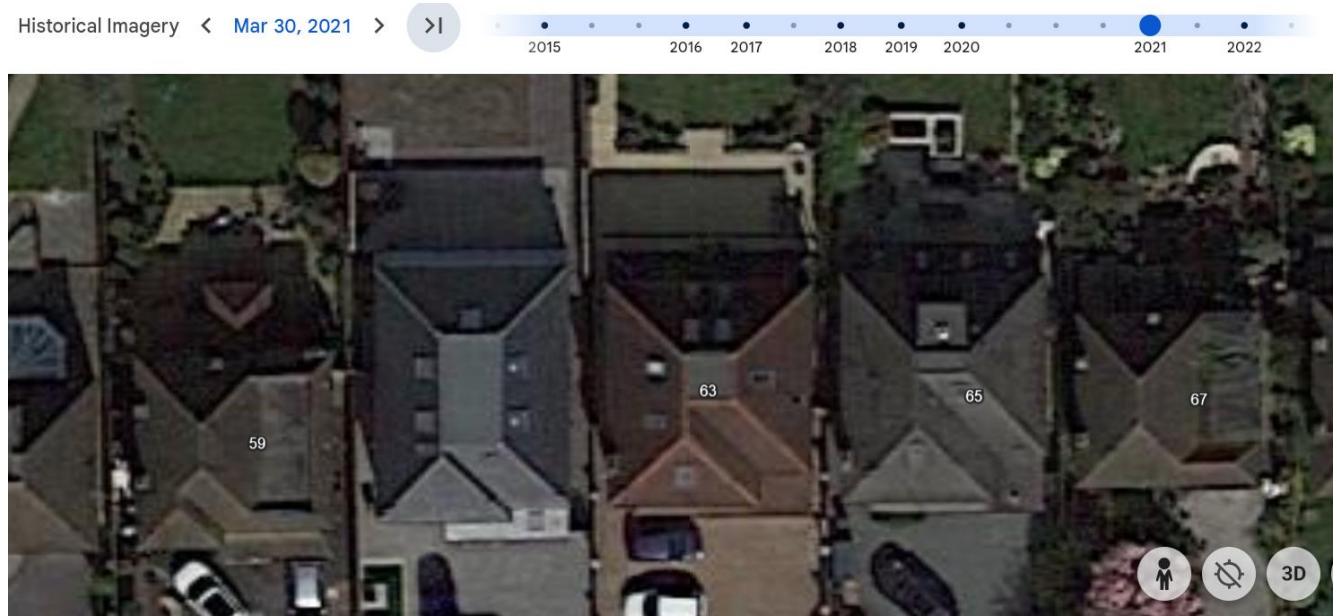
The red cross on the crown roof indicate the property subject to this application.



The red cross on the crown roof indicates the property 24<sup>th</sup> March 2020.



The property 30<sup>th</sup> March 2021.



The red x indicates the property on 10<sup>th</sup> April 2022,

< Apr 10, 2022 > > | 2019 2020 2021 2022



The red x indicates the property June 14<sup>th</sup> 2025

< Jun 14, 2025 > > | 2021 2022 2024 2025



4.4 The images above clearly demonstrate that the rooflights have been in situ for a period greater than 4 years. These photos can be verified on google maps and google earth.

## 5. Building Regulations

5.1 The earliest image that shows the roof windows in place is from the 29th June 2019 further to this the Council's own Building Regulations department signed the development off as complete on 14th November 2019. This document is attached separately but titled **Appendix A**. This corroborates evidence that the roof windows have been in the roof for a period greater than 4 years. Therefore, it is evidently clear that the development of the roof windows was substantially complete 14th November 2019 and is compliant with the 171b of the Town and Country Planning Act 1990.

## 6 Conclusion

6.1 The evidence provided clearly states that the roof windows as built and shown on plan 25007-ZZ-ZZ-DR-T-2001 Rev CO1 have been in situ for a period greater than 4 years in compliance with section 171b of the Town and Country Planning Act 1990. The third party independent photographic evidence clearly shows that the windows have been place for the required period (this can easily be corroborated by the analysing authority) in addition to this the Council's building regulation department state the extensions at 61 Warren Road, Ickenham were complete as of 14<sup>th</sup> November 2019

6.2 The Council's attention is drawn to the following extract from Sweet & Maxwell's Encyclopedia of Planning Law and Practice which explains the 'onus of proof' rule in applying for a Certificate of Lawfulness. "4-1404 ...The onus of proof in a Lawful Development Certificate (LDC) application is firmly on the applicant. While the Local Planning Authority (LPA) should always co-operate with an applicant...they need not go to great lengths to show that the use, operations, or failure to comply with a condition, specified in the application, is, or is not, lawful...".

6.3 It is important to note that planning law states that the LPA should always co-operate with the applicant and in this case the London Borough of Hillingdon hold documentary records which fundamentally confirm that the roof windows were complete as of 14<sup>th</sup> November 2019, there for proving compliance with 171b of the Town and Country Planning Act.

6.4 The Courts have held that the relevant test of the evidence on such matters is "**the balance of probability**". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA **should not refuse** a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt".

6.5 Moreover, the Court has held (see *F W Gabbitts v SSE and Newham LBC [1985] JPL 630*) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. (In this case it is very easily corroborated.)

6.6 If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, **there is no good reason** to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

6.7 The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

6.8 The applicant has provided sufficient documentary evidence to categorically show that the roof windows have been in situ for continuous period of at least four years and are presently in that use (No enforcement action has been taken), this is in compliance with Section 171B, paragraph 2 of the Town and Country Planning Act 1990.

6.9 The development is therefore lawful and the Certificate of Lawfulness should be granted.

**7. Appendix A Building Regulations Completion  
Certificate 14<sup>th</sup> November 2019. (separate document)**