
Appeal Decision

Site visit made on 5 September 2016

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 September 2016

Appeal Ref: APP/G3110/X/16/3153500

118 Southfield Road, Oxford OX4 1PA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr J Strawson against the decision of Oxford City Council.
- The application Ref 16/00486/CPU, dated 17 February 2016, was refused by notice dated 12 May 2016.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is construction of box dormers to rear of property.

Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued in the terms set out below in the Formal Decision

Procedural matter

1. I requested, at the site visit, that the parties provide full size elevational plans of the proposed works and in addition that each provides their calculation of the volume of the proposed dormer additions. I have taken this information into account in my decision.

Reasons

2. Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) says that, subject to various limitations, certain alterations and extensions to dwellinghouses have deemed consent. This deemed consent is often described as 'permitted development' or 'pd'. Class B of Part 1 sets out the limitations and conditions that apply in respect of an addition or alteration to the roof of a dwelling house.
 3. The application has been made under S192 of the Town and Country Planning Act 1990 as amended (the Act) and seeks to establish whether or not a pair of linked dormer extensions to the rear of the appeal property are development permitted by the GPDO and thus do not require an express grant of planning permission.
 4. It is common ground between the parties that the proposed development meets the limitations of Class B, B.1 (a), (b), (e) and (f). However, with reference to the submitted plans, it is apparent that the proposed dormer would be to the rear of the property and thus also meets the requirements of B.1 (c) of the GPDO.
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5. Class B, B.1 (d) says that, in the case of a dwelling other than a terraced house, the resulting roof space should not exceed the cubic content of the original roof space by more than 50 cu metres otherwise it requires an express grant of planning permission. The appellant has provided a detailed calculation of the proposed dormers and the resultant cubic volume is below 50 cubic metres (46.2m³) My own measurements off the submitted plans provide a slightly lower figure because I have excluded the volume of an existing box dormer on the rear roof slope. The Council also agrees, following a review of their initial measurements at application stage, that the proposed dormer would have a volume of less than 50 cubic metres. Accordingly the erection of the proposed pair of linked dormers would meet all the conditions of Class B and thus would, at the date of the application, have had deemed consent.
6. For the reasons given above I conclude, on the evidence now available that the Council's refusal to grant a certificate of lawful use of development in respect of the construction of box dormers to rear of the property was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended to grant a certificate of lawful use or development.

Decision

7. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

Sukie Tamplin

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 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 17 February 2016 the operations 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:

The proposed construction of box dormers has deemed consent by reason of Class B of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015

Signed

Sukie Tamplin

Inspector

Date **19 September 2016**

Reference: APP/G3110/X/16/3153500

First Schedule

Construction of box dormers to rear as shown on the following drawings: Location and Block plan: 113_100, Existing Floor Plans and Elevations: 113_101p01 and Proposed Floor Plans and Elevations: 113_210p01.

Second Schedule

Land at 118 Southfield Road, Oxford OX4 1PA

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 operations 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, is not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 19 September 2016

by Sukie Tamplin DipTP, PG Dip Arch Cons IHBC MRTPI

Land at 118 Southfield Road, Oxford OX4 1PA:

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Scale: 1:500

