

Appeal Decisions

Site visit made on 19 September 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 22 September 2016

Appeal Ref: APP/W4705/X/16/3146373

5 Kenstone Crescent, Bradford BD10 8RY

- 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 Martin Wilkie against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref 16/00369/CLP, dated 19 January 2016 was refused by notice dated 9 March 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 the construction of a side extension to widen existing living room.
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Appeal Ref: APP/W4705/X/16/3142754

5 Kenstone Crescent, Bradford BD10 8RY

- 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 Martin Wilkie against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref 15/06941/CLP, dated 26 November 2015, was refused by notice dated 19 January 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 the construction of a side extension to widen the existing living room.
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Decisions

1. The appeals are allowed and I attach to this decision a Certificate of Lawful Development (LDC) indicating that at the time of the applications the side extension as proposed would have been lawful.

Matter of clarification

2. There were two applications as set out above and both referred to the side extension to the existing lounge area of the dwelling house. The details are the same in each application and I have dealt with the appeals together. As well as an application drawing showing the proposed side extension several other drawings were submitted showing other extensions to the house. I refer to these below.

Reasons

3. An appeal relating to a Certificate of Lawful Use or Development (LDC) is confined to the narrow remit of reviewing the local planning authority's reason for refusal and then deciding whether or not the reasons are well founded. The

planning merits of the case do not fall to be considered. In any LDC application, an applicant is required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. The burden of proof is firmly on the applicant and a local planning authority must be supplied with sufficient information to satisfy them that the proposed development is lawful.

4. In these two cases, although the application form and other correspondence refers to the side extension only, I found some of the submitted drawings, showing other extensions to the rear and referring to permitted development rights, to be unnecessary and confusing. The applications referred to the side extension only and there are no rear extensions to the dwelling house. The applications sought no more than a decision on this proposed extension. I can understand, therefore why the local planning authority may have also been confused as to what exactly was being applied for. Having said that, I found their reasons for refusal equally perplexing in that they referred to a rear extension (as opposed to the applied for side extension) not meeting the permitted development rights.

5. I now understand that in any case planning permission has been granted for a 'wrap around scheme which includes both a side and a rear extension and that the authority accepts that the side extension itself constitutes permitted development. Because the LDC appeals were not withdrawn I have determined both appeals.

6. Having considered the applications drawings purely in relation to the proposed side extension I consider that such development is permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2, Part 1 Class A. The proposal is not contrary to any of developments 'not permitted' and set out in A.1 of the GPDO. Both appeals therefore succeed and a LDC will be issued. Because the applications were for the same extension only one certificate is required. There are no other matters for me to consider.

Anthony J Wharton

Inspector



The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 26 November 2015 (and 19 January 2016), the development described in the First Schedule hereto in respect of the land/property specified in the Second Schedule hereto, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development constitutes permitted development

Signed

Anthony J Wharton

Inspector

Date: : **22 September 2016**

Appeal Reference: APP/W4705/X/16/3146373 and APP/W4705/X/16/3142754

First Schedule

The construction of a side extension to widen (the) existing living room.

Second Schedule

5 Kenstone Crescent, Bradford BD10 8RY

Notes:

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended) and relates to the side extension only.

It certifies that the proposed development described in the First Schedule on the land specified in the Second Schedule was lawful, on the certified dates and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on those dates.

This certificate applies only to the extent of development described in the First Schedule and to the land/property specified in the Second Schedule. 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.
