
Appeal Decision

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by Simon N Hand MA

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

Decision date: 08 December 2016

Appeal Ref: APP/G5750/X/16/3152608
44 Hartland Road, London, E15 4AH

- 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 Mrs Mary Antoine against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/00575/CLP, dated 25 February 2016, was refused by notice dated 4 March 2016.
 - The application was made under section 191(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 loft conversion with rear dormer window.
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Decision

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

Main Issue

2. Whether the proposed dormer extensions are permitted development.

Reasons

3. No 44 is typical of many urban terraced dwellings with a conventional two storey front façade facing the road but with a long single story rear extension. This rear extension has a first floor extension which links to the neighbour's similar extension and both are covered by a pitched roof. The extension is accessed from the landing in the main house, but some 4 steps down from the equivalent first floor in the main house. The proposal is to provide a box-like rear dormer on top of the roof of the first floor extension and a more traditional rear dormer on the main roof of the dwelling creating a similarly off-set set of rooms at second floor level. The lower box-like dormer is smaller in width than the main roof dormer so the eaves and gutters of the main roof will be retained on part of the roof but lost where the box-like dormer joins the new roof dormer. Other than this area of lost eaves the dormers respect the 20cm set back from the eaves required by Class B of the General Permitted Development (England) Order 2015.
4. The only area of dispute between the parties therefore seems to be the interpretation of Class B.2.(b)(i) which says.

"Development is permitted by Class B subject to the following conditions—

(b) the enlargement must be constructed so that—

other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and"

5. The rest of (i) is not relevant to this determination. The Council argue that the eaves of the main roof cannot be re-instated and so the proposal is contrary to (aa) and there is no set back behind the eaves where the two dormers join, contrary to (bb).
6. However, as the appellant points out, the Council have failed to apply the exclusion in (b) which says *"other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension"*. In this case the proposal is just such an enlargement and so does not need to comply with either (aa) or (bb).
7. This conclusion is reinforced by the updated *Permitted Development for Householders - Technical Guidance 2016* which states in the section on Class B *"The enlarged part of the roof may join the original roof to the roof of a rear or side extension (generally referred to as an 'L-shaped dormer' on a main roof and 'outrigger' or 'back addition' roof), whether the part of the house being extended forms part of the original house or is an enlargement, or the shape or level of the pitch of the roofs are different in relation to each other."* Which is exactly the situation here.
8. Consequently, I consider the proposal is permitted development and shall issue the lawful development certificate as applied for.

Simon Hand

Inspector

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 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 25 February 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: They comply with the restrictions in Class B and C of the General Permitted Development (England) Order 2015.

Signed

Simon Hand

Inspector

Date: **08 December 2016**

Reference: APP/G5750/X/16/3152608

First Schedule

Loft conversion with rear dormer window

Second Schedule

Land at 44 Hartland Road, London, E15 4AH

NOTES

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

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

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