
Appeal Decision

Site visit made on 19 December 2016

by Simon N Hand MA

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

Decision date: 23 December 2016

Appeal Ref: APP/K3605/X/3158855

154 Oatlands Drive, Weybridge, Surrey, KT13 9EZ

- 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 Phillip Meatyard against the decision of Elmbridge Borough Council.
 - The application Ref 2016/0273, dated 26 January 2016, was refused by notice dated 22 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 erection of single storey rear extensions and dormer loft conversion.
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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 enlargement to the roof is greater than 50m³?

Reasons

3. The appellant occupies an 'L' shaped bungalow and proposes a dormer loft conversion and a rear extension to fill in some of the 'L' shape. The roof is already somewhat unusual because of the 'L' shape, and this is further complicated by different sized protrusions over various bay windows and a porch.
4. The Council refused the certificate because they calculated the roof enlargement to be greater than 50m³, which is the maximum allowed by Schedule 2, Class 1, Part B.1.(d)(ii) of the General Permitted Development (England) Order 2015. The Council have not provided an explanation for these calculations or any representations other than the questionnaire, so it is difficult for me to understand how they reached this figure. However, the appellant says that the Council informed him the figure they reached was 60.1m³. According to him this is correct, except that it does not then subtract the various protrusions mentioned above. These should not be counted as they would be subsumed within the new roof. The appellant sets out detailed calculations to show the actual increase is only 48.79m³.

5. I have only been able to check a few of these figures, as not all the relevant measurements are on the plans, but those I have checked are accurate. Since receiving the refusal the appellant has been in contact with the Council to try and explain his figures and to find out how they reached theirs. The appellant points out the complete absence of any representations from the Council, including the original officer's report suggests they accept their calculations are incorrect. I would not necessarily go that far, but I have no reason to doubt the appellant's calculations and consequently, I shall issue the lawful development certificate as requested.

Simon Hand

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 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 26 January 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason: they comply with the relevant provisions of Schedule 2, Part 1 of the General Permitted Development (England) Order 2015.

Signed

Simon Hand

Inspector

Date **23 December 2016**

Reference: APP/K3605/X/3158855

First Schedule

The erection of single storey rear extensions and dormer loft conversion

Second Schedule

Land at 154 Oatlands Drive, Weybridge, Surrey, KT13 9EZ

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 use /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, 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.

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.