
Appeal Decision

Site visit made on 9 January 2017

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 31 January 2017

Appeal Ref: APP/X0415/X/16/3153147
39 Poles Hill, Chesham, Bucks HP5 2QR

- 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 Ms N Eames against the decision of Chiltern District Council.
 - The application Ref CH/2015/2379/SA, dated 22 December 2015, was refused by notice dated 17 February 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 a rear dormer loft conversion.
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Decision

1. The appeal is allowed.

Reasons

2. The main issue is whether the proposal accords with the limitations of Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) England Order 2015 [GPDO]. The only matter in dispute between the Council and appellant relates to whether the roof enlargement closest to the eaves of the original roof is, so far as practicable, not less than 200mm from the eaves.
3. There has been some debate about how this should be interpreted, particularly where the edge of the eaves is. This has been looked at in the High Court and latterly has been the subject of further amendment to the Statutory Instrument. It is now clear that the measurement is to be taken along the roof slope from the outside edge of the eaves. With this amendment it is common ground that the distance to the edge of the eaves from the dormer would not contravene the limitation in the GPDO. Therefore the dormer would be permitted development.
4. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a rear dormer loft conversion 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.

Graham Dudley

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 date of application the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched black on the plan attached to this certificate, was lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development accords with the limitations in Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) England Order 2015.

Signed

Graham Dudley

Inspector

Date **31 January 2017**

Reference: APP/X0415/X/16/3153147

First Schedule

A rear dormer loft conversion.

Second Schedule

Land at 39 Poles Hill, Chesham, Bucks HP5 2QR

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 operation 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, 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 operation 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: **31 January 2017**

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Scale: NTS

