
Appeal Decision

Site visit made on 24 January 2017

by P N Jarratt BA DipTP MRTPI

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

Decision date: 1 February 2017

Appeal Ref: APP/T5150/X/16/3157001
42 Burrows Road, London, NW10 5SG

- 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 Ed Foster against the decision of the Council of the London Borough of Brent.
 - The application Ref 15/4730, dated 20 October 2015, was refused by notice dated 24 December 2015.
 - 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 for a proposed rear dormer with rear projection, single storey rear extension and insertion of 2 front roof lights to the dwelling.
 - **Summary of decision:** Appeal allowed
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Main issue

1. I consider that the main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

Reasons

2. The appeal property is a two storey terraced dwelling situated in a residential area.
3. The Council accepts that the proposed single storey rear extension is within the scope of the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). It also considers that the two proposed roof lights comply with Class C. There is no reason why I should disagree with their assessment.
4. However, the Council did not issue an LDC as they consider that the proposed rear dormer with rear projection fails to comply with Condition B.2 (b)(i)(bb). In particular, the failure to comply arises from the connecting rear addition not being set back by 0.2 metres from the eaves where it connects with the extension to the rear roof slope. The Council acknowledges that for one third of its width the rear dormer extension to the main roof is set up from the eaves by 0.2 metre.
5. However, the conditions regarding maintaining the eaves of the original roof in B.2(b)(i)(aa) and the edge of the enlargement closest to the eaves being set back by not less than 0.2 metres from the eaves in B.2(b)(i)(bb) do not apply in this case. Condition B.2(b)(i) expressly excludes enlargements joining the

original roof to the roof of a rear or side extension from the requirements of (aa) and (bb). The proposed roof enlargement falls within this category and as it complies with the limitations set out in Class B, it would be permitted development.

6. As the proposed development satisfies the limitations and conditions of the GPDO the appeal succeeds.

Conclusion

7. 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 proposed rear dormer with rear projection, single storey rear extension and insertion of 2 front roof lights to the dwelling 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.

Formal decision

8. 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.

P N Jarratt

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 20 October 2015 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed single storey rear extension, the rear dormer with rear projection and insertion of 2 front roof lights to the dwelling is within the scope of the provisions of Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

P N Jarratt

Inspector

Date **1 February 2017**

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First Schedule

Proposed rear dormer with rear projection, single storey rear extension and insertion of 2 front roof lights to the dwelling.

Second Schedule

Land at 42 Burrows Road, London, NW10 5SG

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.



Plan

This is the plan referred to in my decision dated: **1 February 2017**

by P N Jarratt BA(Hons) DipTP MRTPI

Land at: 42 Burrows Road, London, NW10 5SG

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Scale: Do not scale

