
Appeal Decisions

Site visit made on 23 March 2017

by Simon N Hand MA

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

Decision date: 30 March 2017

Appeal A: APP/T5150/X/16/3155524 29 Chelmsford Square, London, NW10 3AP

- 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 U Gwarzo against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/1100, dated 14 March 2016, was refused by notice dated 15 June 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 a hip to gable loft conversion including a rear dormer window.
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Appeal B: APP/T5150/C/16/3157593 29 Chelmsford Square, London, NW10 3AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr U Gwarzo against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/15/0532, was issued on 25 July 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a dormer window roof extension to the premises.
 - The requirements of the notice are STEP 1 – demolish the rear dormer window roof extension and restore the roofslope back to the original form before the unauthorised development took place. STEP 2 – Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b) and (f) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A - 3155524

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

Appeal B - 3157593

2. The appeal is allowed and the enforcement notice is quashed.

Reasons

3. Although the LDC application is for a proposed dormer, it had clearly been built by the time the application was made and I have considered it as a s191(1)(b) application.
4. No 29 was a hipped roof house and the intention was to create a hip to gable extension with a rear dormer, all within the permitted development limits conferred by Class B of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015. There is a somewhat lengthy history to the proposed extensions, involving a previous lawful development certificate that was granted but then not adhered to and several different plans submitted, but none of that is particularly relevant as the dispute between the Council and the appellant has been refined down to two measurements. The Council argue the width of the dormer is 6.4m, whereas the appellant's architect says it is 6.3m; and the Council say the depth of the dormer is 4.3m whereas the appellant's architect says it is 3.5m. The appellant's figures mean the development is under the 50m³ allowed by B.1(d), but if the Council's figures are used it is several metres in excess of the 50m³ maximum allowance.
5. The Council initially took their measurements on site and say they agreed them with the appellant and his builder, although the builder now suggests there was still uncertainty about the depth measurement. The appellant's architect explained the dormer is set in from the side of the dwelling by 10cm hence the discrepancy between 6.4 and 6.3. This is shown on the as-built plans and I could see was the case from inside the dormer.
6. The depth was measured on my site visit, although exactly where the dormer ends within the larger room created by the hip to gable enlargement was not clear. However, by looking through a hole in the ceiling following the removal of a ceiling light it was possible to see the ridge of the roof. This appeared to be roughly where the appellant's architect suggested it was that is about 4.3m back from the outside edge of the dormer. As I could see from the street the dormer does not start at the ridge but some way lower down. While I was not able to measure this exactly on site, it did seem to make sense that the 3.5m depth was to where the dormer met the roof, whereas the 4.3m depth was to the ridge. Consequently, I consider the appellant's figures are to be preferred and so the development applied for in the lawful development certificate is permitted development. I shall therefore allow the lawful development certificate appeal and quash the enforcement notice.
7. On the site visit we were able to see a rear two storey extension that is shown on the plans to finish at the level of the eaves of the main roof. However, it was obvious this had been extended and now cut through the eaves level. However, this extension is not subject to the enforcement notice or the lawful development certificate application and so I shall take that matter no further.

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 14 March 2016 the operations described in the First Schedule hereto in respect of the land 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 dormer and hip to gable extension was within the limits of Class B of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015.

Signed

Simon Hand

Inspector

Date: 30 March 2017

Reference: APP/T5150/X/16/3155524

First Schedule

The hip to gable loft conversion including a rear dormer window as shown on the "as built" plans 1609/EA/04 dated 30/10/2016 (elevations) and 1609/EA/02 dated 21/10/2016 (floor plans).

Second Schedule

Land at 29 Chelmsford Square, London, NW10 3AP

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. 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.