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## Appeal Decision

Site visit made on 8 August 2017

**by Simon N Hand MA**

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

**Decision date: 24 August 2017**

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**Appeal Ref: APP/M5450/X/17/3172521**  
**124 Carlyon Avenue, Harrow, HA2 8SW**

- 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 Andy Sabapathee against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/5637/16, dated 12 January 2017, was refused by notice dated 6 March 2017.
  - 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 hip to gable enlargement and rear dormer extension.
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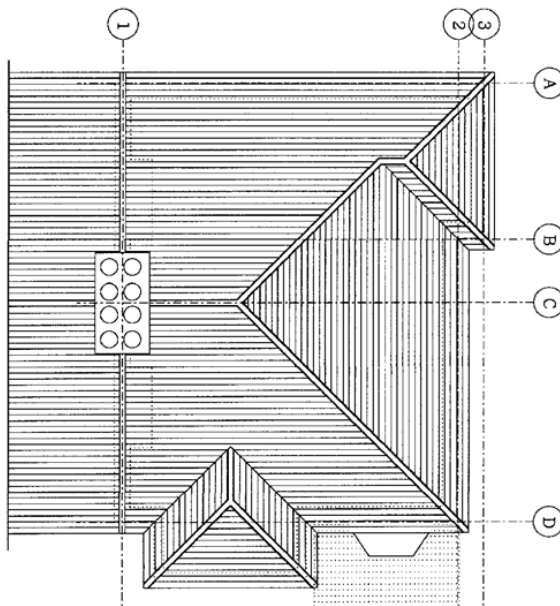
### Decision

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.

### Reasons

2. The Council have refused to issue a certificate as they say the proposal would not be in conformity with Class B of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015. In particular it would contravene B.1(c) which says that development is not permitted if *"any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway"*.
3. No 124 is one of a pair of semi-detached dwellings with a hipped roof. The proposal is for a hip to gable enlargement and a rear dormer, which would ordinarily be permitted development. However, in this case the dwelling, along with others in the street, has a very narrow projection to the rear of the side wall which creates a shallow 'L' shape. This is surmounted by its own small hipped roof which takes up the corner of the main hip.
4. The image of the roof plan below better explains the situation. The section A-B is the side hip roof that creates a forward facing roof slope. Part of the rear dormer would be in front of this roof slope as this section of roof would effectively be incorporated into the dormer. This I assume is the plane of an existing roof slope about which the Council are concerned. They explained to the appellant that although they had granted a certificate for a similar

development on a nearby property they have realised since that this was a mistake and such proposals are not permitted development.



5. However, B.1(c) refers specifically to works extending beyond the plane of a roof slope *"which forms the principal elevation of the dwellinghouse and fronts a highway"*. I do not consider the small forward facing part of the wall below the side hip to be part of the principal elevation of the dwelling. The DCLG Technical guidance describes the principal elevation as *"in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house"*. The guidance goes on at A.1(e) to consider the principal elevation in relation to an enlargement of a dwellinghouse that might project forward of such an elevation rather than an enlargement of the roof, but nevertheless the guidance is helpful in describing the various forms a principal elevation can take. It envisages the principal elevation can be comprised of several forward facing walls such as in the case of bay windows or an 'L' shape frontage so there is no hard and fast rule as to what comprises a *"principal elevation"*. Had the guidance intended that all and every forward facing wall was part of the principal elevation it would simply have said so. The fact that it gives examples of multiple forward facing walls that are part of the principal elevation suggests there are other examples of walls that would be forward facing but not part of the principal elevation.
6. I consider the very narrow wall facing forward next to the letter 'B' on the above diagram is not part of the principal elevation of the dwelling, but is a side wall to the side facing projection. This is not an 'L' shaped house, but a standard rectangular house with a small side projection. In which case the rear dormer does not project forward of a roof slope which forms the principal elevation of the dwelling and so the proposal is permitted development.
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 hip to gable enlargement and rear dormer extension 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.

*Simon Hand*

Inspector

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## 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

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**IT IS HEREBY CERTIFIED** that on 12 January 2017 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 are not contrary to B.1(c) of Schedule 1 Part 1 of the General Permitted Development (England) Order 2015.

Signed

*Simon Hand*

Inspector

Date: 24 August 2017

Reference: APP/M5450/X/17/3172521

### **First Schedule**

a hip to gable enlargement and rear dormer extension

### **Second Schedule**

Land at 124 Carlyon Avenue, Harrow, HA2 8SW

## 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 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, 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 operations described in the First Schedule and to the land specified in the Second Schedule. 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.