



Appeal Decision

Site visit made on 28 August 2019

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/T5150/X/18/3213401

11 Denzil Road, London NW10 2UR

- 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 Mrs Rani Mirza against the decision of the Council of the London Borough of Brent.
 - The application Ref 18/2903 dated 24 July 2018, was refused by notice dated 14 September 2018.
 - 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 extension.
-

Decision

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

Application for costs

2. An application for costs was made by Mrs Rani Mirza against the London Borough of Brent. This application is the subject of a separate Decision.

Reasons

3. The property is a terraced, 2-storey dwelling with a pitched roof. At the rear, there is an existing outrigger which is also joined to a single storey extension further into the back garden.
4. The proposal would involve an 'L' shaped dormer including an addition on the rear roof-slope of the main part of the house along with a narrower rear element that would be on top of the outrigger as well roof-lights within the front roof-slope of the main part of the dwelling. The application has been made in order to determine whether the development would be granted by Article 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Article 3 grants planning permission for classes of development described as permitted development in Schedule 2 to the GPDO. Part 1 of Schedule 2 deals with development, set out in various classes, within the curtilage of a dwellinghouse.
5. I am referred in this case to: Class A which relates to the "enlargement, improvement or other alteration of a dwellinghouse"; and Class B which relates to "the enlargement of a dwellinghouse consisting of an addition or alteration of

its roof". In addition, Class C involving "any other alteration to the roof of a dwellinghouse" is also relevant to consider due to the insertion of roof-lights in the front elevation of the house.

6. The only contention of the Council is that the addition to the outrigger would be an extension to the dwellinghouse which needs to be considered under Class A rather than Class B. As such, the Council's view is that the proposal is beyond the limitation set out in paragraph A.1(i), that the enlarged part of the dwellinghouse would be within 2m of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3m. The appellant disputes that this limitation is relevant and that Class B only needs to be considered but does not dispute the Council's calculation of height or the proximity to the side boundary.
7. It has been held that the ordinary meaning of the language is to be ascertained when construing the GPDO in a broad or common-sense manner. The proposal would involve the increase in height of the outrigger by 0.695m. This would increase the height of walls of that part of the building in a matching brickwork. It is a question of fact and degree as to whether this would involve an enlargement of the dwellinghouse under the provisions of Class A or whether it falls squarely within the provisions of Class B.
8. There would be an alteration of and an addition on top of the outrigger and this would therefore increase the height of the roof in one operation with the additional accommodation that would be created on the second floor. This may in part increase the volume of internal space of the existing first-floor bathroom but not in terms of any useable floor-space or accommodation. I consider that it is reasonable to consider this as an addition and alteration to the roof within the meaning of the GPDO and Class B in particular.
9. The proposal would involve the joining of the roof of the original dwelling to the existing roof of the outrigger and Technical Guidance¹ (the guidance) helps the consideration of the GPDO in such circumstances. In relation to Class B, the guidance acknowledges that the enlarged part of the roof may join the original roof to the roof of a rear or side extension (an 'L-shaped dormer' on a main roof and 'outrigger'). I consider that the enlargement of the dwellinghouse would consist of an addition and alteration to its roof, within the scope of Class B. The Council has not disputed, in the alternative to its reason for refusing the application, that the proposal would otherwise comply with the conditions and limitations of Class B. The plans indicate that this would be the case. Similarly, the proposed roof-lights would comply with Class C.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a rear dormer extension was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

A Harwood
INSPECTOR

¹ Department for Communities and Local Government, Permitted development rights for householders, Technical Guidance, April 2017

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 24 July 2018 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and 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 development is "permitted development" falling within Classes B and C of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for which planning permission is granted by Article 3(1) of that Order.

Signed

A Harwood
INSPECTOR

Date 23 September 2019

Reference: **APP/T5150/X/18/3213401**

First Schedule

A rear dormer extension

Second Schedule

Land at 11 Denzil Road, London NW10 2UR

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, 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 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: 23 September 2019

by **Andy Harwood CMS MSc MRTPI**

Land at: 11 Denzil Road, London NW10 2UR

Reference: APP/T5150/X/18/3213401

Not to scale (original scale 1:1250)

