



Appeal Decision

Site visit made on 24 September 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2019

Appeal Ref: APP/Q4245/X/19/3222304

58 Derbyshire Lane, Stretford, Manchester M32 8BF

- 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 Stephen McCusker against the decision of Trafford Borough Council.
- The application Ref 95527/CPL/18, dated 29 August 2018, was refused by a notice dated 15 January 2019.
- 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 alterations to roof at rear of property.

Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out in the Formal Decision.

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 found to be lawful.

Procedural Matter

2. The reason for the appeal on the appeal form was that the Council had failed to give notice of their decision within the appropriate time period on an application for a certificate of lawful use or development. However, during the appeal process it became apparent that the Council had issued their decision, which was to refuse the application, although the appellant had not been aware of that decision. The appellant has been given the opportunity to comment on the reasons for refusal and so has not been prejudiced. I have therefore determined the appeal on the basis that the Council refused to grant a certificate of lawful development.

Reasons

3. Section 192(2) of the Town and Country Planning Act 1990 as amended (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal and the main issue is

whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.

4. The proposed development is for an alteration to the roof at rear of the property. The development would involve re-configuring the existing double pitched roof which has a valley gutter, to create a single plane flat roof with a parapet abutting the gable of the main house. As the position of proposed flat roof would coincide with the height of the existing ridge of the dual pitch roof, the proposal would result in an increase in the volume of the roof space and would be enlargement of the dwellinghouse. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted by Class B, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), subject to the restrictions set out in B.1 and conditions at B.2.
5. The Council does not consider that the development contravenes Class B of the GPDO but considers that the works amount to more than just an addition to the roof and should also be considered as an extension to the property. In particular, the Council consider that the proposed development would not comply with the limitations at Class A.1 (h) and (i) or those within Class C.1 (b) of Part 1, Schedule 2 of the GPDO.
6. However, in this case the enlargement to the dwellinghouse would take place solely within the roof area of the rear outrigger. Essentially, a new roof would be created that would encompass the existing voids between the roof's eaves, valley gutter and its ridge. It would not therefore amount to an extension to the property but would be purely an enlargement of the roof space. I do not consider that Class A applies in this instance.
7. Furthermore, the Ministry of Housing, Communities and Local Government publication *Permitted development rights for householders: Technical Guidance*, dated September 2019, makes it clear that when considering the provisions of Class C of the Part 1, Schedule 2 of the GPDO – *other alterations to the roof*, this should not be applied where the alterations involve any enlargement of the house.
8. The proposed development should therefore be considered as an enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The Council Officer's report confirms that the Council do not consider that there would be any conflict with any of the restrictions at B.1 or conditions at B.2 of Class B of the GPDO, and from the evidence provided with the application and in support of it, I see no reason to take a different view.

Conclusion

9. 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 an alteration to the roof at rear of the property at 58 Derbyshire Lane, Stretford, Manchester M32 8BF 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.

Elizabeth Pleasant

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 29 August 2018 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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 alterations to the roof at the rear of property is "permitted development" falling within Class B of Part 1 of Schedule 2 of 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

Elizabeth Pleasant

Inspector

Date: 9 October 2019

Reference: APP/Q4245/X/19/3222304

First Schedule

Alteration to roof at rear of property (as shown on Site Layout Plan; Proposed Site Plan; Proposed Elevations)

Second Schedule

Land at 58 Derbyshire Lane, Stretford, Manchester M32 8BF

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 the Lawful Development Certificate dated: 9 October 2019

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Land at: 58 Derbyshire Lane, Stretford, Manchester M32 8BF

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Scale: Not to Scale



1:1250 SITE LAYOUT PLAN