



Appeal Decision

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2019

Appeal Ref: APP/M5450/X/19/3224134
24 Haig Road Stanmore HA7 4EP

- 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 and Mrs N Bharmal against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5091/18, dated 15 November 2018, was refused by notice dated 14 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 for alterations to roof to form end gable and rear dormer with Juliet balcony; installation of two roof lights in front roof slope and new window in single storey side extension; single storey rear extension (following prior approval application P/4396/18/PRIOR).
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Decision

1. The appeal is allowed and attached to this decision is an LDC that describes the operations which are considered to be lawful.

Application for costs

2. An application for costs was made by Mr and Mrs N Bharmal against the London Borough of Harrow. This application is the subject of a separate Decision.

Procedural matters

3. For the avoidance of doubt, I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). Upon review of the appeal and the submissions from the Appellant and the Council I considered that a logical decision on the appeal could be reached without the need for a scheduled site visit. I have therefore considered the appeal on this basis.
4. The description of development on the Council's decision notice more accurately reflects the nature of the proposed development. I have used this description, slightly amended to remove superfluous wording, for the purposes of the attached LDC.
5. Following the determination of the application by the Council, additional plans were submitted to clarify the position regarding the proposed eaves height and the existing garage. These are plan no's 18/24HR/01 (plan 01), 18/24HR/02

(plan 02) and 18/4HR/10A (plan 03). Although this information was received on the date of, or after the Council's decision, I have had regard to them in my decision.

Main Issue

6. The main issue is whether the Council's decision to refuse to issue an LDC for the application was well-founded.

Reasons

7. The appeal site is a single storey semi-detached dwelling in a primarily residential area of generally two storey terraced houses and semi-detached bungalows. The submitted plans show that the proposal is for a single storey rear extension.
8. In an LDC appeal the onus of proof is on the appellants to show that, on the balance of probability the development would have been lawful, at the time of the application. Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) grants planning permission for those classes of development described as 'permitted development' in Schedule 2. Part 1 of Schedule 2 permits development within the curtilage of a dwellinghouse. Class A provides permitted development rights for the enlargement, improvement or alteration of a dwellinghouse, subject to certain limitations and conditions. Paragraph A.1 explains the circumstances where development is not permitted for Class A. For the purposes of this appeal the relevant sub-sections of paragraph A.1 are (d); (g) (j (iii)); and (ja). The appeal site is not affected by any special designations.
9. It is accepted by the parties that the proposed development complies with all of the other conditions and limitations associated with Class A of the GPDO. The two main points of dispute are, whether on the balance of probability, the eaves of the part of the dwellinghouse enlarged, improved or altered exceeds the height of the eaves of the existing dwelling; and whether, as a result of the existing single storey garage, the proposed rear extension would form part of a cumulative enlargement, that extends beyond a wall forming a side elevation of the original dwellinghouse, and has a width greater than half of the width of the original dwellinghouse, and a total depth exceeding 6 metres.
10. The plans submitted as part of the application were 18/42HR/10; 18/24HR/120 and 18/24HR/21. Plan No. 18/42HR/10 dated July 2018, shows the four elevations and floor plan of the existing dwelling. There are no written measurements. Plan No. 18/24HR/21 also dated July 2018 shows the four proposed elevations of the dwelling. The proposed rear (east) elevation is annotated '2980 (max 3000 at eaves)'. The final plan No. 18/24HR/120 shows the proposed floor plans.
11. The Council's certificate report refers to the eaves height on the existing house being 2.64 metres and the eaves height of the proposed side and rear extension as 2.79 metres. I have no evidence before me to confirm where these measurements have come from. However, as the appellant does not dispute these measurements, I accept that they give a reasonable indication of the existing eaves height. However, the two additional plans Plan 01 submitted following the Council's decision, show the elevations of the existing dwelling. This plan is annotated and refers to an eaves height of 2.77 metres. The

- second, Plan 02 shows the elevations of the approved development. Again, this is annotated and also shows a proposed eaves height of 2.77 metres.
12. The appellant's statement for the appeal, explains that the originally submitted drawings, included an arris rail to the side of the roof, which they accept distorts the appearance of the true height of the eaves on the drawings. The appellant goes on to acknowledge that the drawings are less clear following the inclusion of the hip to gable conversion. Nonetheless, I find that the evidence I have before me is clear in this respect.
 13. Turning to the second point. The Council contends that the retention of the existing garage, means that the proposal must be considered in terms of a cumulative enlargement.
 14. I note that the submitted plans do not show the position of the existing garage, other than on the location and block plans. There is no dispute that the garage exists, in the approximate position shown on those plans. However, the description of the proposed development on the application form, relates only to the single storey side and rear extensions and hip to gable conversion, dormer and roof lights. It does not refer to the demolition of the garage.
 15. The appellants later contacted the Council on 14 January 2019, to clarify the need to demolish the garage to make way for the proposed extensions. A further plan was submitted No. 18/24HR/10A (Plan 03) (Existing Plans and Elevations). I accept that although the scale of the block plan is small, it appears to show an area of overlap of the proposed rear extension and the garage. Moreover, the Plan 03 and the appellant's statement make it clear that the rear garage is to be removed.
 16. Overall, I find that the evidence and plans submitted to the Council at the time of the application did not make the details of the proposal clear. However, in the light of the additional evidence and plans (No's 18/24HR/10A, 18/24HR/01 and 18/24HR/02) that I now have before me, I am satisfied that on the balance of probability the proposed operations would be permitted development under Schedule 2, Part 1 Classes A1 of the GDPO. (d); (g) (j (iii)); and (ja) of the GDPO and class of part one schedule 2 and would therefore be granted by planning permission by Article 3 of the GPDO.

Conclusion

17. For the reasons given above, I conclude, on the evidence available to me, that the Council's refusal to grant an LDC in respect of alterations to roof to form end gable and rear dormer with Juliette balcony; installation of two roof lights in front roof slope and new window in side single storey side extension; single storey rear extension, at 24 Haig Road, Stanmore HA7 4EP, was not well-founded. As such the appeal succeeds and I exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Hilary Orr

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 15 November 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, were lawful within the meaning of section 192(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The alterations to roof to form end gable and rear dormer with Juliet balcony; installation of two roof lights in front roof slope and new window in single storey side extension; single storey rear extension would be permitted development under Schedule 2, Part 1 Class A1 of the GPDO.

Signed

Hilary Orr

Date: 2 December 2019

Reference: APP/M5450/X/3224134

First Schedule

The alterations to roof to form end gable and rear dormer with Juliet balcony; installation of two roof lights in front roof slope and new window in single storey side extension; single storey rear extension.

Second Schedule

Land at 24 Haig Road, Stanmore HA7 4EP

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 2 December 2019

by Hilary Orr MSc, MRTPI

Land at: 24 Haig Road Stanmore HA7 4EP

Reference: APP/M5450/X/3224134

Scale: Not to scale

