



Appeal Decision

Site visit made on 19 November 2019

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2019

Appeal Ref: APP/J0350/X/19/3226486 482 Bath Road, Slough SL1 6AT

- 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 Nitin Mishra against the decision of Slough Borough Council.
- The application Ref P/01147/004, dated 16 January 2019, was refused by notice dated 20 March 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 a loft conversion over the original dwelling (dormer at rear, part hip to gable and a window, two roof windows in front roof slope).

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

Main Issue

1. The main issue in this appeal is whether it has been shown that the proposal would be granted planning permission by Article 3, Schedule 2, Part 1 Class B and Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

2. The onus is on the appellant to show that an LDC should be granted for the proposal, the relevant test of the evidence being on the balance of probability.
3. The appeal site contains a semi-detached bungalow of hipped roof design. The bungalow, which has recently been extended to the side, is located on the corner of Bath Road and Walpole Road.
4. The proposal involves enlarging the bungalow to create a half-hipped roof form at the side, with a dormer at the rear and two roof lights in the front roof slope.
5. The GPDO Article 3, Schedule 2, Part 1 Class B grants planning permission for enlarging the roof of a dwelling, subject to certain limitations. These include paragraph B.1 (c), which does not permit a roof enlargement where it would extend beyond the plane of an existing roof slope which forms the principal elevation of the dwelling and fronts a highway.
6. The Government's Technical Guidance¹ advises that in most cases the 'principal elevation' will be that part of a dwelling which fronts the main highway serving

¹ Permitted development rights for householders-Technical Guidance MHCLG September 2019.

the dwelling. It will usually contain the main architectural features. Usually, the principal elevation will be what is understood to be the front of the dwelling. The Technical Guidance makes it clear that there will only be one principal elevation.

7. The main architectural features of the bungalow are the large window with its decorative timber window box and render panel below, the main pedestrian entrance and the garage door. These features are in the elevation facing Bath Road, albeit in the case of the pedestrian entrance, set back from the front wall. It is not unreasonable to conclude that this is the front elevation of the bungalow. There are no architectural features in the side elevation of the bungalow parallel to Walpole Road. Therefore, the front is the principal elevation of the bungalow. Bath Road is clearly a highway.
8. The submitted drawings show that no part of the roof enlargement would extend beyond the plane of the existing front roof slope of the bungalow. Although the enlargement would extend beyond the existing roof plane on the side of the bungalow parallel to Walpole Road, that is not the principal elevation. Therefore, I find that the proposal would not breach the limitation at paragraph B.1 (c) of Class B.
9. The submitted drawings show a window in the side elevation of the roof enlargement with an opening top light. The condition at Class B, paragraph B.2 (c) only permits a window inserted in a roof slope forming the side elevation where it is obscure glazed and non-opening up to 1.7 m above the floor of the room in which it would be installed. The type of glazing and height of the top light are not specified.
10. However, the submitted drawings show that the window would serve an ensuite toilet. It is not unreasonable to expect that the appellant would require a high level of privacy in an ensuite toilet. For these reasons, in my view it is more likely than not that the window would be obscure glazed and non-opening below 1.7 m. Consequently, the window would comply with the condition at paragraph B.2 (c). In any event, as an LDC under s192 of the Act is not the equivalent of a grant of planning permission, it would not authorise the undertaking of works in breach of the above condition.
11. The GPDO Article 3, Schedule 2, Part 1 Class C grants planning permission for other alterations to the roof of a dwelling. The submitted drawings show that the proposed roof lights in the front elevation would not protrude more than 0.15 m beyond the plane of the slope of the original roof. Therefore, the roof lights would not breach the limitation at paragraph C.1 (b) of Class C. Moreover, for the reasons set out above it is unlikely that the side elevation window would breach the condition at paragraph C.2 of that Class.
12. The Council accepted that the proposal would not breach any of the other limitations and conditions in Class B or other limitations in Class C. Following my own assessment, I found no reason to conclude otherwise.
13. Therefore, it has been shown on the balance of probability that the proposal would be granted planning permission by the GPDO Article 3, Schedule 2, Part 1 Class B and Class C.

Conclusion

14. 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 loft conversion over the original dwelling (dormer at rear, part hip to gable and a window, two roof windows in front roof slope) was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me under section 195 (2) of the 1990 Act as amended.

Formal Decision

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

Stephen Hawkins

INSPECTOR



The Planning Inspectorate

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 16 January 2019, the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would be lawful within the meaning of section 191 (2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The available evidence shows that, on the balance of probability, the proposed operations described in the First Schedule and shown on the drawings titled Existing Elevations; Existing and Proposed Floor Plans, and; Proposed Elevations, all referenced 482BR/SL/LDCP and dated January 2019, would be granted planning permission by Article 3, Schedule 2, Part 1 Class B and Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Stephen Hawkins

Inspector

Date: 5 December 2019

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First Schedule

Loft conversion over the original dwelling (dormer at rear, part hip to gable and a window, two roof windows in front roof slope).

Second Schedule

482 Bath Road, Slough SL1 6AT.

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 be lawful, on the specified date and, thus, would not have been 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 also qualified by the proviso in section 192(4) of the 1990 Act, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 5 December 2019

by Stephen Hawkins MA MRTPI

Land at: 482 Bath Road, Slough SL1 6AT

Reference: APP/J0350/X/19/3226486

Scale: Not to scale

