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# Appeal Decision

**by Elizabeth Jones BSc (Hons) MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 December 2019**

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**Appeal Ref: APP/T0355/X/19/3227351**  
**307 St Leonards Road, Windsor SL4 3DR**

- 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 Dimbylow against the decision of Council of the Royal Borough of Windsor and Maidenhead.
  - The application Ref 19/00596, dated 28 February 2019, was refused by notice dated 23 April 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 removal of existing 2no. rear dormer windows and 1no. front velux rooflight and replace with L-shaped rear dormer windows and 2no. front velux rooflights.
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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.

## Procedural Matter

2. I have properly taken the appellants' names from the application form. The appeal was made in the name of 'Mrs Laura Prosser' which I am informed is Mrs Dimbylow's maiden name.

## Reasons

3. The appeal property comprises an end of terrace property. It includes an original rear outrigger with a mono-pitched roof which is at a lower level to the main sloping roof of the house. The proposed development involves the removal of two dormers from the main rear roof slope and the construction of an L-shaped dormer extension. One arm of the L shaped dormer would extend across the main rear roof slope whilst the other arm would extend across part of the roof slope of the outrigger at a lower level due to the difference in levels between the main roof and the outrigger.
4. The Council refused the application because it considered that the proposed development fails to comply with Article 3, Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Class B covers additions or alterations to roofs which enlarge the house such as loft conversions involving

dormer windows. The appellants contend that the proposed development falls within this class, meets all the specified limitations and conditions and so is permitted development.

5. The matter in contention is whether the conditions B.2(b)(i)(aa) and B.2(b)(ii) should apply to the development. The Council in its submissions considers that the "proposal joins a dormer to a dormer and not the original roof of the existing rear projection of the house and where the proposed L shaped dormer would extend from the main roof of the dwelling onto the roof of the rear projection a section of the property's original eaves would be completely removed and therefore not maintained or reinstated".

6. Development is permitted by Class B subject to conditions.

Condition B.2 states: -

- (b) the enlargement must be constructed so that -

- (i) other than in the case of a hip to gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension -

- (aa) the eaves of the original roof are maintained or reinstated.

- (ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse.

7. The Council has considered the proposed development as joining a dormer to a dormer. This is misconceived since, in my view, it is only appropriate to consider the proposed L-shaped dormer as one discrete operation not separate out its constituent parts. The proposed L-shaped dormer would be a single structure, and so, as a matter of fact and degree, it would be an enlargement which joins the main roof to the roof of the outrigger and conditions B.2(b)(i)(aa) and B.2(b)(ii) do not apply.
8. The Department for Communities and Local Government publication "*Permitted development rights for householders Technical Guidance (2017)*" (TG) explains the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances. In relation to condition B.2 the TG states that "The enlarged part of the roof may join the original roof of a rear or side extension (generally referred to as an 'L-shaped dormer' on a main roof and 'outrigger' or 'back addition' roof), whether the part of the house being extended forms part of the original house or is an enlargement, or the shape or level of the pitch of the roofs are different in relation to each other". Having regard to the submitted plans, the TG supports my assessment above in this particular case.
9. The Council draws attention to an appeal decision<sup>1</sup> in which the previous Inspector refers to the TG (albeit a previous version). I have considered the previous Inspector's findings and decision and acknowledge that the Council has placed some reliance on the previous Inspector's decision. However, I do

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<sup>1</sup> APP/T0355/X/16/3142500

not have the full details of this development before me and thus, cannot be certain that this development is directly comparable with the appeal proposal.

10. The Council considers that the proposed front rooflights would comply with Class C of the GPDO which permits other alterations to the roof of a dwellinghouse. I agree, that the rooflights would be permitted development under Class C.

### **Conclusion**

11. For the reasons given above I conclude, on the evidence before me that the Council's refusal to grant a certificate of lawful use or development in respect of the removal of existing 2no. rear dormer windows and 1no. front velux rooflight and replace with L-shaped rear dormer windows and 2no. front velux rooflights was not well-founded and that the appeal should succeed. I exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*Elizabeth Jones*

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 28 February 2019 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 L-shaped rear dormer is permitted development falling within Class B of Part 1 of Schedule 2, and the proposed 2no. front velux rooflights are permitted development falling within Class 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

*Elizabeth Jones*

Inspector

Date: 05 December 2019

Reference: APP/T0355/X/19/3227351

### **First Schedule**

Removal of existing 2no. rear dormer windows and 1no. front velux rooflight and replace with L-shaped rear dormer windows and 2no. front velux rooflights.

### **Second Schedule**

Land at 307 St Leonards Road, Windsor SL4 3DR

## 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.



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## Plan

This is the plan referred to in my decision dated: 05 December 2019

by **Elizabeth Jones BSc (Hons) MTCP MRTPI**

**Land at: 307 St Leonards Road, Windsor SL4 3DR**

**Reference: APP/T0355/X/19/3227351**

Do not scale

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