



Appeal Decision

Site visit made on 28 January 2020

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/Q1445/X/19/3229509

54 Worcester Villas, Hove BN3 5TB

- 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 failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Tony Skelding against Brighton & Hove City Council.
 - The application Ref BH2019/00616 is dated 1 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 to convert the current loft space by adding an L-shaped dormer to create two good sized bedrooms with separate show room.
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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 found to be lawful.

Reasons

2. The certificate seeks to establish whether a proposed extension to the roof in the form of an L-shaped dormer would be lawful. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful. The appeal is against the failure of the Council to give notice of its decision within the prescribed period, which has resulted in a deemed refusal. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's deemed refusal to issue an LDC was well-founded or not.
3. The Council has indicated that if it had been able to determine the application, it would have granted the certificate. Thus, there is no dispute between the parties that the development would be lawful. On the basis of the evidence before me, I have no reason to differ from the view that the extension would benefit from the permitted development rights set out in Classes B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
4. For the reasons given above, I conclude that the Council's deemed refusal to grant a certificate of lawful use or development was not well-founded and that

the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

N Thomas

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 dated 1 March 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 operations are permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Signed

N Thomas

INSPECTOR

Date: **12 February 2020**

Reference: APP/Q1445/X/19/3229509

First Schedule

Convert the current loft space by adding an L-shaped dormer to create two good sized bedrooms with separate show room.

Second Schedule

Land at 54 Worcester Villas, Hove BN3 5TB

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, was 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: **12 February 2020**

by N Thomas MA MRTPI

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