



Appeal Decision

Site visit made on 9 January 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 1 March 2020

Appeal Ref: APP/L5810/X/19/3225125

10 Scotts Drive, Hampton, Middlesex TW12 2UN

- 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 Urvish Patel against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 18/3339/PS192, dated 11 October 2018, was refused by notice dated 22 November 2018.
 - 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 proposed single storey rear extension with front porch.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

Preliminary Matters

2. For the avoidance of doubt, the planning merits of any future development are not relevant to this appeal for an LDC. Residents have raised concerns about the potential impact of the proposed development. These concerns go towards the planning merits of the development. However, my decision rests on the facts of the case alone.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

4. The appeal site is a two-storey detached dwelling. The Council refused the LDC application on the grounds that the proposed rear extension would extend beyond the rear wall of the first floor side extension which does not form part of the original dwelling.
5. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) sets out permitted development (PD) rights for the enlargement, improvement or other alteration of a dwelling house, subject to a number of conditions and limitations. Paragraph A.1 (f) provides that a single storey extension is not permitted if it

would extend beyond the rear wall of the original dwelling house by more than 4m in the case of a detached dwelling house.

6. The main parties agree that the side garage is an original part of the building, and that the first floor extension above the garage is not original. The proposed single storey rear extension would span the rear elevation of the dwelling. The new section adjoining the two storey part of the house would be around 2.95m in height, dropping to around 2.6m high where it adjoins the garage section.
7. The appellant states that the original height of the single storey garage was 2.72m, but the Council estimates that it was 2.15m. On that basis, the Council argue that where the new extension would cross the back of the side extension, it would exceed the height of the original garage and project from a non-original wall.
8. The 'Permitted development rights for householders - Technical Guidance' (TG) defines the rear wall or walls of a house as those which are directly opposite the front of the house. In this case, the original rear elevation comprises a single plane across the back of the building. Although the first floor side extension is a later addition, it sits on the same building line as the original rear wall of the house.
9. At approximately 3.6m in depth, the new extension would fall within the 4m limit for detached houses. Whether or not the single storey extension were to adjoin part of a non-original back wall, it would still not extend beyond any part of the original rear wall by more than 4m. Therefore it has been shown, on balance of probability, that the enlargement is permitted development when taking into account the limitations of Class A.

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of a rear extension was not well founded and that the appeal should succeed. I shall exercise the powers transferred to me under s195(2) of the Act.

Elaine Gray

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 11 October 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 19 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations described in the first schedule would not comprise development requiring planning permission.

Elaine Gray

INSPECTOR

Date: 1 March 2020

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First Schedule

Single storey rear extension with front porch

Second Schedule

10 Scotts Drive, Hampton, Middlesex TW12 2UN

IMPORTANT NOTES – SEE OVER

CERTIFICATE OF LAWFULNESS FOR PLANNING PURPOSES

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 my decision dated: 1 March 2020

by Elaine Gray MA(Hons) MSc IHBC

Land at: 10 Scotts Drive, Hampton, Middlesex TW12 2UN

Reference: APP/L5810/X/19/3225125

Scale: Not to scale

