

---

# Appeal Decision

Site visit made on 11 February 2020

**by A A Phillips BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 March 2020**

---

**Appeal Ref: APP/N5660/X/19/3234849**  
**327 Croxted Road, London SE24 9DB**

- 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 Alex Lewis against the decision of the Council of the London Borough of Lambeth.
  - The application Ref 19/01000/LDCP, dated 18 March 2019, was refused by notice dated 8 May 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 rear facing dormer with two front roof lights.
- 

## 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.

## Application for costs

2. An application for costs was made by Mr Alex Lewis against the Council of the London Borough of Lambeth. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Class B of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

## Reasons

4. It is my understanding that the decision the subject of this appeal followed the Council's review of appeal decisions and comparable cases in the light of a decision relating to 54 Natal Road<sup>1</sup> and changed its approach to dealing with cases relating to the interpretation of conditions B.2(b)(i)(aa) and B.2(b)(ii) of Class B of Part 1 of Schedule 2 of the GPDO. It was subsequently found that according to the Council's interpretation of the GPDO the application for 327

---

<sup>1</sup> APP/N5660/X/17/3184131

Croxted Road should be refused because the proposal would extend beyond the outside face of the side wall to the rear return, contrary to these conditions.

5. The Council acknowledges the importance of appeal decisions and the weight that should be given them. Indeed, previous decisions are a significant material consideration and as such it is the responsibility of local planning authorities to review their decisions and their approach to interpreting the provisions of the GPDO.
6. A further appeal decision for an L-shaped dormer at 39 Finsen Road<sup>2</sup> was received by the Council on 12 August 2019. This decision included a detailed analysis of the conditions in the GPDO which specifically relate to proposals under Class B of Part 1 of Schedule 2 and concluded that conditions B.2(b)(i)(aa) and B.2(ii) should relate to an L-shaped dormer. The appeal was allowed and therefore, the Council again reviewed its interpretation of the GPDO and accepted the outcome of most recent decisions relating to L-shaped dormers.
7. Having regard to the 39 Finsen Road appeal, the Council subsequently granted a certificate of lawfulness for a rear dormer and installation of rooflights to the front slope of 327 Croxted Road and it is my understanding that the approved proposal was the same as the proposal to which this current appeal relates.
8. Therefore, in the light of the above there is no conflict between the appellant and the Council with respect to the proposal the subject of this appeal. Although the Council maintains that the determination of the application the subject of this appeal was in accordance with their interpretation of the GPDO at the time, in the light of most recent appeal decisions their Council's decision to refuse to issue a LDC was not well-founded.

### **Conclusion**

9. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC in respect of the proposal for a rear facing dormer with two front roof lights was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

### **Formal Decision**

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

*A A Phillips*

INSPECTOR

---

<sup>2</sup> APP/N5660/X/18/3215721

---

## 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 18 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 rear facing former with two roof lights was permitted development by virtue of provisions of Class B of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Signed

*A A Phillips*

INSPECTOR

Date: 8 March 2020

Reference: APP/N5660/X/19/3234849

### **First Schedule**

Rear facing dormer with two front roof lights.

### **Second Schedule**

Land at 327 Croxted Road, London SE24 9DB

## 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 the Lawful Development Certificate dated: 8 March 2020

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

**Land at: 327 Croxted Road, London SE24 9DB**

**Reference: APP/ N5660/X/19/3234849**

Scale: Do not scale

