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# Appeal Decision

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

**Decision date: 17 April 2020**

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**Appeal Ref: APP/C1570/X/19/3239481**

**63 Worrin Road, Flitch Green, Dunmow, CM6 3FU**

- The appeal is made by Georgina Dessier under section 195 of the Town and Country Planning Act 1990 against a refusal by Uttlesford District Council to grant a lawful development certificate.
  - The application Ref: UTT/19/1997/CLP, dated 13 August 2019, was refused by notice dated 9 October 2019.
  - The application was made under section 192(1)(b).
  - The development for which the certificate is sought is "Loft conversion with rear dormer and four roof lights to the front elevation".
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## Decision

1. The appeal is dismissed.

## Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on whether or not the loft conversion would be lawful if begun at the time of the application for the certificate. The planning merits of the loft conversion are not relevant to the appeal and there is no planning application before me that relates to it or to the planning conditions affecting the house.

3. The Council refused the application for the following reason: -

"The Permitted Development Rights were removed for this type of development under planning approval UTT/1072/01/DFO and UTT/1073/01/DFO and therefore a Lawful Development Certificate for proposed use cannot be granted".

The documents submitted by the Council during the appeal have not added any further explanation.

4. The planning approvals referred to in the reason for refusal each contain the following condition C.6.4: -

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no extensions shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission) on any part of the site without the prior written permission of the local planning authority".

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5. The reason given for the condition is "In order to avoid overdevelopment".
6. The appellant maintains that, because the condition applies to "extensions", it is restricted to householder development described in the current Order that uses the term "extension" or "extensions", which she states is Class A. Since the loft conversion would fall within Classes B and C, the appellant claims that the condition does not apply and that the lawful development certificate should therefore be granted.
7. The words quoted by the appellant in her grounds of appeal are not an extract from the Order. They are taken from page 8 of the Government publication *Permitted development rights for householders: Technical Guidance*, where rear or side extensions are described as examples of development covered by Class A because they are the enlargement, improvement or other alteration of a house.
8. In fact, the term "extension" or "extensions" is not used in Class A. It is used in Class B, but only in the context of an enlargement that joins the original roof to the roof of a rear or side extension. In the 1995 version of the Order the term is not used in either of the corresponding Classes A and B.
9. The interpretation of planning conditions is ultimately a matter for the courts but, in my opinion, what the condition is precluding is the construction of any extensions on any part of this housing development site, other than those already authorised or which are authorised by the Council in the future; and this preclusion is to have effect notwithstanding that planning permission may have been granted for the extensions by the 1995 Order or its replacement. Since the term "extension" or "extensions" is not used in the classes in the 1995 Order or its replacement that deal with householder development, the term should in my opinion be given its ordinary meaning in this context to ascertain whether the loft conversion falls within the ambit of the condition. In my view, an extension in this context means a new part added to a house in order to enlarge it.
10. The plans of the loft conversion show that there would be no increase in the floor area of the house. The rooflights at the front would not add to the size of the house, but the dormer at the back would increase its roof space, enabling it to be converted into two extra bedrooms and another bathroom. As it happens, dormers are often called dormer extensions and loft conversions are often called loft extensions.
11. I have therefore concluded that the dormer would bring this loft conversion within my definition of a house extension, since a new part would be added to the house that would enlarge it. Since planning permission has not been granted for the loft conversion except by way of the Order, its construction is precluded by the condition. It would not be lawful if begun at the time of the application for the certificate since it would be contrary to the condition and I am satisfied that the Council's refusal of the application is well-founded. The appeal has therefore been dismissed.

*D.A.Hainsworth*

INSPECTOR