



Appeal Decision

Site visit made on 4 July 2020

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2020

Appeal Ref: APP/M5450/X/19/3233262

20 Broadfields, Harrow Weald, Harrow HA2 6NH

- 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 Kanti Kiran against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1312/19, dated 18 March 2019, was refused by notice dated 13 May 2019.
 - The application was made under section 191(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 single storey side extension, 6m single storey rear extension and loft conversion.
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Decision

1. The appeal is allowed in part and attached to this decision is a certificate of lawful use or development describing the extent of the existing operation which is considered to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse the certificate of lawfulness was well-founded.

Reasons

3. The appeal property comprises a semi-detached bungalow which has been modified with a hip-to-gable roof extension, rear dormer, side extension and rear extension. The appellant applied for a certificate of Lawful Development to establish if the single storey side extension, 6m single storey rear extension and loft conversion would be lawful. The application was submitted on the basis that the extensions would be permitted development. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law.

Single storey rear extension

4. The appellant submitted notification for Prior Approval for the rear single storey extension under the Town and Country Planning (General Permitted Development)(GPDO) Order 2015 Schedule 2, Part 1, Class A. The Council confirmed on 23 January 2018 that prior approval was not required for the proposed works. Permission was granted by the GPDO subject to the development being carried out in accordance with the information provided to

the local planning authority under sub-paragraph (2)¹, unless the local planning authority and the developer agree otherwise in writing. I am not aware that any agreement has been reached.

5. Whilst the lantern is not identified on the submitted plans, it appears to be an integral part of the extension as constructed and is not an insignificant feature of the development. Although the lantern would not increase the height of the extension to more than 4m, as the development has not been carried out in accordance with the information previously considered by the local planning authority, it does not constitute permitted development and is therefore not lawful.
6. S193(4) allows a certificate to be granted for all or part of the site, and one or more of the uses or operations comprised in the application. Although I have found that the single storey rear extension would not constitute permitted development, it is also necessary to consider whether the remaining elements which the appellant sought an LDC for would be lawful.

Side extension

7. Planning permission was granted in 2018, reference P/5232/17 for a single storey side to rear extension. Although the development has not been built in accordance with planning permission P/5232/17, the appellant submitted the LDC application on the basis that the various elements would be permitted development. Article 3, Schedule 2, Part 1 Class A of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse subject to specified limitations and conditions.
8. The side extension extends beyond a wall forming a side elevation of the original dwellinghouse but it does not exceed 4 metres in height; it does not have more than a single storey; and it does not have a width greater than half the width of the original dwellinghouse. The Council raised concern regarding the consistency of the plans submitted alongside the application with what has been built but nevertheless comments that the existing side extension is not more than a half the width of the original dwellinghouse.
9. From the evidence before me, and from my inspection of the site, for the above reasons I consider that the side extension would be granted planning permission by the GPDO Article 3, Schedule 2, Part 1 Class A and is therefore lawful for planning purposes.

Loft conversion

10. The loft conversion comprises a hip-to-gable roof extension, rear dormer and roof lights on the front roof plane. Article 3, Schedule 2, Part 1 Class B of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof subject to specified limitations and conditions. The dormer does not exceed the height of the highest part of the existing roof, nor does it exceed the cubic content of the original roof space by more than 50 cubic metres.

¹ (2)(a) of the GPDO requires a written description of the proposed development including – (i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse; (ii) the maximum height of the enlarged part of the dwellinghouse; and (iii) the height of the eaves of the enlarged part of the dwellinghouse; 2(b) of the GPDO requires a plan indicating the site and showing the proposed development;

11. Article 3, Schedule 2, Part 1 Class C permits any other alteration to the roof of a dwellinghouse unless (b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof. It was clear from my inspection that the roof lights do not protrude more than 0.15 metres beyond the plane of the roof slope of the original roof.
12. Thus, I consider that the loft conversion would be granted planning permission by the GPDO Article 3, Schedule 2, Part 1 Class B and C and is lawful for planning purposes.
13. Given the powers available to me under S193(4) of the Act, I consider that a certificate should be granted for those operations which are lawful, namely the loft conversion and side extension.

Other Matters

14. It is alleged, by an interested party, that the appellant intentionally breached planning regulations. The appellant refutes this and has drawn my attention to details of a dispute with the individual concerned. However, as set out above, an application for an LDC is determined on the facts and the law and the intent of the appellant is not relevant to the appeal before me.

Conclusion

15. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the single storey side extension and loft conversion was not well-founded and that the appeal succeeds to that extent. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

M Savage

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, the side extension would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

On the balance of probability, the loft conversion would be granted planning permission by Article 3, Schedule 2, Part 1, Class B and C of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Signed

M Savage

Inspector

Date 6 August 2020

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First Schedule

Single storey side extension and loft conversion in accordance with drawings PL03, PL04, PL05, PL06, PL07.

Second Schedule

Land at 20 Broadfields, Harrow Weald, Harrow HA2 6NH



Plan

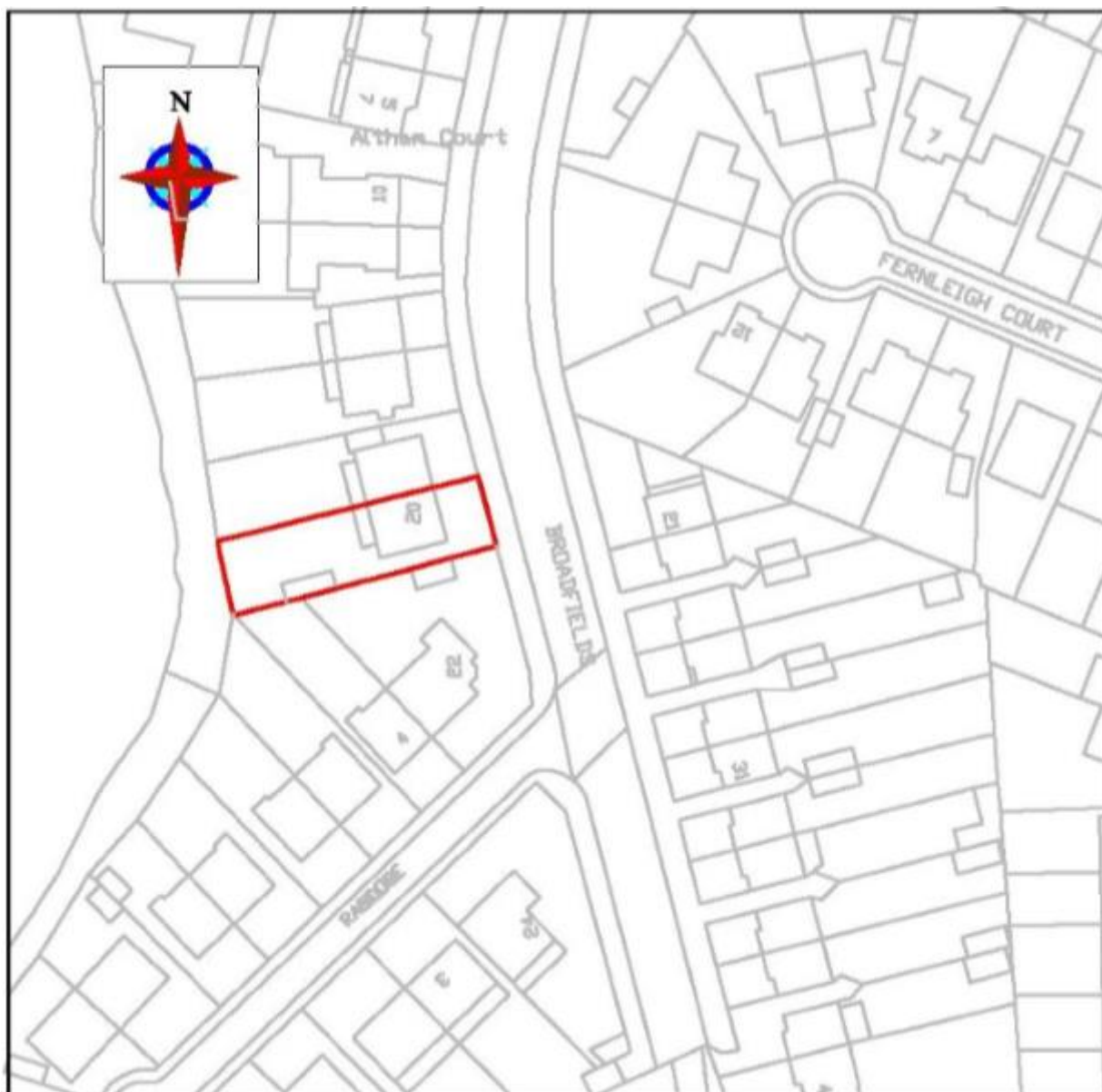
This is the plan referred to in the Lawful Development Certificate dated: 6 August 2020

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Scale: NTS



NOTES

This certificate is issued solely for the purpose of Section 191 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 was /were 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.