



Appeal Decisions

Site visit made on 13 April 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal A Ref: APP/G5750/X/20/3259734

87 Forest Lane, Stratford, London E15 1RW

- 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 Miss Maho Akita of Akita Komar Architects against the decision of the Council of the London Borough of Newham.
 - The application Ref 20/01328/CLP, dated 26 June 2020, was refused by notice dated 21 August 2020.
 - 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 described as: Addition to the roof – Class B.
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Appeal B Ref: APP/G5750/X/20/3263555

87 Forest Lane, Stratford, London E15 1RW

- 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 Miss Maho Akita of Akita Komar Architects against the decision of the Council of the London Borough of Newham.
 - The application Ref 20/01928/CLP, dated 7 September 2020, was refused by notice dated 26 October 2020.
 - 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 described as: Addition to the roof – Class B.
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Decisions

1. Appeal A and Appeal B are allowed and attached to these decisions are certificates of lawful development describing the proposed operations which are found to be lawful.

Preliminary Matters

2. I have dealt with another appeal on this site, relating to an application for planning permission. This is the subject of a separate decision¹.
3. The descriptions of development in the headings above have been taken from the application forms. However, the Council's decision notices contain a different description of development. Neither of the main parties have provided

¹ APP/G5750/D/20/3259739

written confirmation that a revised description of development has been agreed for either appeal. Accordingly, I have used those given on the original application forms.

4. At my site visit I was able to see the rear of the appeal property from the public highways to either side. From these public vantage points it was clear that the rear outrigger of the appeal property had been almost entirely demolished. However, to comply with section 192(2) of the 1990 Act, my decisions must be based on circumstances at the time of the application, rather than on any subsequent events that may constitute a material change in circumstances since the time of the applications.

Main Issues

5. The main issue in each appeal is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

6. Under section 192(1) of the 1990 Act, if any person wishes to ascertain whether any operations proposed to be carried out in, on, over or under land, would be lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the operations in question.
7. Under section 192(2), if, on an application under this section, the local planning authority are provided with information satisfying them that the operations described in the application would be lawful if begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
8. As set out in the Planning Practice Guidance², the applicant is responsible for providing sufficient information to support an application.
9. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of development. Schedule 2, Part 1, Class B of the Order concerns the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to conditions and limitations.
10. As reflected in the descriptions of development provided by the appellant, each appeal has been made on the basis that it is permitted development under Class B, noted above.
11. For each appeal, the Council considers that the appeal development is not lawful because of what it describes as the vertical extension of the parapet walls. It is the Council's view this cannot be considered an alteration or addition to the roof.
12. But it has been established in case law that parapet walls and other barriers will generally be regarded as additions or alterations to the roof and there is no evidence that this should not be so in this case. So for each appeal, the Council's concern in this regard does not mean that the proposed development is not lawful.

² Lawful development certificates - Paragraph: 006 Reference ID: 17c-006-20140306

13. In respect of Appeal B, the Council has referred to discrepancies in the depiction of the dwellinghouse on the submitted drawings. In particular, the Council states the existing A-A section depicts an unclear line above the first floor of the rear outrigger and the chimney situated on the rear outrigger fails to be portrayed, and thus its removal as a result of the potential extension is not reflected.
14. But as no chimney is shown on the outrigger on either the existing or the proposed drawings, the removal of any chimney on the outrigger is not proposed in either application. Also, I am satisfied the 'unclear line' on section A-A merely indicates the height of the ridgeline of the rear outrigger.
15. Also in respect of Appeal B, the Council states that a dormer extension effectively needs to be set in from the party/parapet walls instead of encompassing the upper projection/building upon them, so that it is wholly an extension to the roof not also an extension of exterior walls. But I have not been referred to any authority for this view and it is not what is reflected in the wording of the Order. So based on the information provided, I do not accept either appeal development to be unlawful for this reason.
16. No other dispute between the parties has been put to me in respect of Class B for either appeal. So in the absence of any other reason for either appeal development not being lawful, based on the drawings provided, I am satisfied each appeal development complied with all the conditions and limitations of Class B of the Order, at the time each application was made.

Conclusion

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant certificates of lawful use or development in respect of: 'Addition to the roof – Class B' in either appeal, was not well-founded and that the appeals should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

L Perkins

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 20 June 2020 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 roof addition, described on drawing numbers A_87FL_EX_001, A_87FL_EX_100, A_87FL_EX_101, A_87FL_EX_102, A_87FL_EX_103, A_87FL_PR_200B, A_87FL_PR_201B, A_87FL_PR_202B, A_87FL_PR_203B and A_87FL_PR_204B, complies with Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed:

L Perkins

Inspector

Date: 19 July 2021

Reference: APP/G5750/X/20/3259734

First Schedule

Addition to the roof – Class B

Second Schedule

Land at 87 Forest Lane, Stratford, London E15 1RW

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

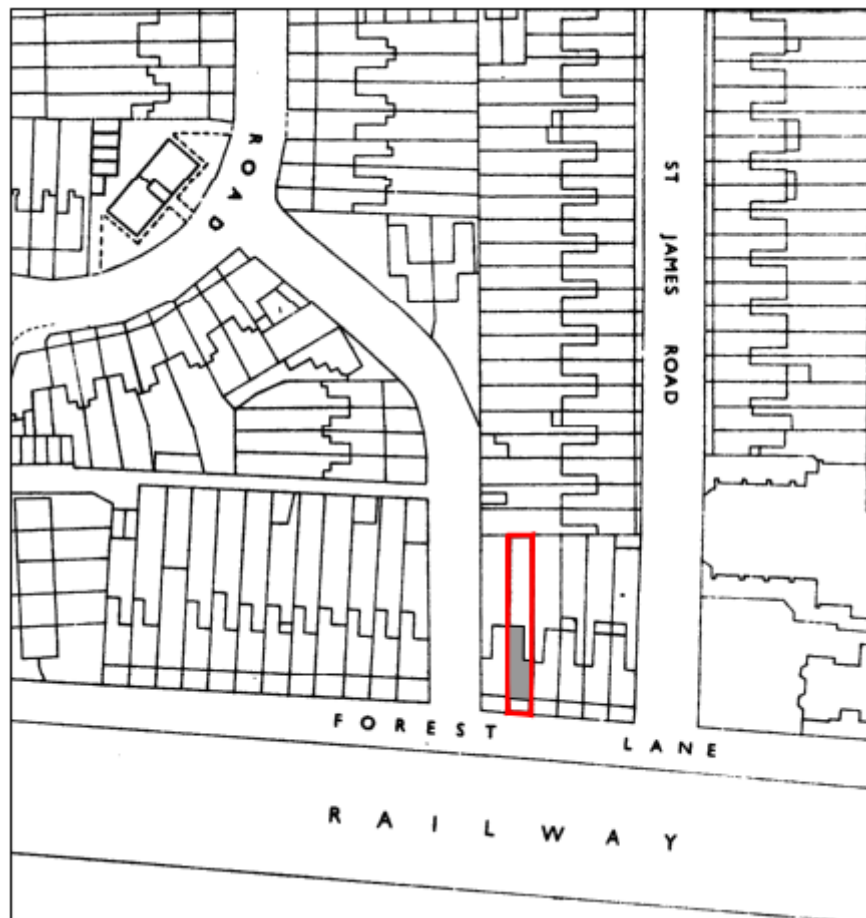
This is the plan referred to in the Lawful Development Certificate dated: 19 July 2021

by **L Perkins BSc (Hons) DipTP MRTPI**

Land at: 87 Forest Lane, Stratford, London E15 1RW

Reference: APP/G5750/X/20/3259734

Scale: Not to scale





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 7 September 2020 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 roof addition, described on drawing numbers A_87FL_EX_001, A_87FL_EX_100, A_87FL_EX_101, A_87FL_EX_102, A_87FL_EX_103, A_87FL_PR_200C / Rev. B, A_87FL_PR_201C / Rev. B, A_87FL_PR_202C / Rev. B, A_87FL_PR_203C / Rev. B and A_87FL_PR_204C / Rev. B, complies with Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed:

L Perkins

Inspector

Date: 19 July 2021

Reference: APP/G5750/X/20/3263555

First Schedule

Addition to the roof – Class B

Second Schedule

Land at 87 Forest Lane, Stratford, London E15 1RW

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: 19 July 2021

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