
Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/J0350/X/20/3266034
2A Chestnut Avenue, Slough SL3 7DE

- 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 N Singh against the decision of Slough Borough Council.
 - The application Ref: P/05413/006, dated 25 September 2020, was refused by notice dated 19 November 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 a side dormer extension to the existing roof.
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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 found to be lawful.

Main Issue

2. Planning permission granted for the appeal property in 1982 (Ref: P/05413/001) included condition 8 which reads: *"Notwithstanding the provisions of the Town and Country Planning General Development Orders 1977-1981, no additional windows or other openings shall be constructed in the northern and southern elevations of the dwelling hereby approved without prior written approval of the local planning authority"*. The reason given for the condition is *"To help safeguard the privacy and visual amenity of the occupiers of adjacent properties"*.
3. The appeal proposal is for a dormer extension in sloping roof on the North elevation of the house. The Council does not raise any concerns that the dormer would not meet the conditions and limitations of the planning permission granted under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 2015 for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Based on the evidence before me, I have no reason to disagree.
4. The Council is though concerned that the dormer extension would be an opening on the North elevation of the house which would contravene condition 8, thus making the proposal unlawful. I shall examine as the main issue

whether, as a matter of fact and degree, this would be the case. This is a legal determination in which matters of planning merit are not relevant.

Reasons

5. I recognise that during the construction of the extension there would be a temporary opening in the roof on the North elevation. However, the application is not for an opening in the roof, temporary or otherwise. It is for a dormer extension which the submitted plans show, as a matter of fact, when complete would not have any permanent openings or windows in its North elevation. It would be solid/blank finished with materials to match the existing property. There would be a small window in each side cheek of the extension, but they would clearly be in the East and West elevations of the dwelling.
6. Moreover, whilst matters of planning merit are not relevant, given that there would be no windows or openings in the North elevation, the purpose of the condition to help safeguard the privacy and visual amenity of adjacent residential occupiers would also be fulfilled.
7. In view of the above, the proposed development would not contravene condition 8 of planning permission Ref: P/05413/001 and there is no other reason why the development would not be lawful under s191(1)(2) of the 1990 Act. I therefore conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a side dormer extension to the existing roof was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Gareth Symons

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 25 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It would not contravene the restrictions of condition 8 of planning permission Ref: P/05413/001 and it would have planning permission granted by Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 2015.

Signed

Gareth Symons

INSPECTOR

Date 20 October 2021

Reference: APP/J0350/X/20/3266034

First Schedule

Side dormer extension to the existing roof.

Second Schedule

Land at 2A Chestnut Avenue, Slough SL3 7DE

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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 20 October 2021

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Scale: Do not scale.

