
Appeal Decision

Site visit made on 9 February 2022

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2022

Appeal Ref: APP/E5330/X/21/3278205
125 Vanbrugh Hill, Blackheath SE10 9HB

- 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 Stephen Wallace against the decision of Royal Borough of Greenwich Council.
 - The application Ref 21/1050/CP, dated 23 March 2021, was refused by notice dated 19 May 2021.
 - 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: A roof conversion with rear dormer and front Velux roof lights.
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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. The main issue is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

3. 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.
4. 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.
5. As set out in the Planning Practice Guidance¹, the applicant is responsible for providing sufficient information to support an application.

¹ Lawful development certificates - Paragraph: 006 Reference ID: 17c-006-20140306

6. 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. This is relevant for the proposed dormer. Schedule 2, Part 1, Class C of the Order concerns any other alteration to the roof of a dwellinghouse, subject to conditions and limitations. This is relevant for the roof lights.
7. In its report, the Council has assessed every limitation and condition of Class B and Class C for the proposal and has found that it complies with them all. I have no reason to disagree with this assessment. However, in its decision, the Council has referred to inconsistencies which it says do not allow the Council to make a proper and accurate assessment of the proposal and so it has refused the application on the basis of Class B.
8. The Council's report states that the inconsistencies include:
 - the proposed elevational drawings show the proposed dormer would have a width of 4m, however, the proposed floor plan shows the proposed dormer would have a width of 4.4m; and
 - the proposed elevation drawings show the proposed dormer would have a height of 1.5m, however, the proposed sectional drawing shows the proposed dormer would have a height of 1.2m.
9. No other inconsistencies have been described and I have no reason to believe there are any others either.
10. Taking account of the calculations provided by the Council in its report, regarding requirement B.1(d)(i) of Class B, it makes no difference whether the proposal is considered taking into account the wider and taller dormer measurement or the narrower and shorter dormer measurement. In other words, the dormer would comply with requirement B.1(d)(i) in either case.
11. The difference in volume as a result of the above does not in any way approach the 40 cubic metre limitation for a dormer on a terraced house. Taking this into account, I am satisfied in this case that the inconsistencies identified by the Council are of no consequence and that the proposal has been described on the drawings with sufficient clarity and precision to enable an understanding of exactly what is involved².

Conclusion

12. 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 a roof conversion with rear dormer and front Velux roof lights 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.

L Perkins

INSPECTOR

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

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 23 March 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shaded 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:

The rear dormer and roof lights, described on drawing numbers EN/01, EN/02, EN/03, EN/04 and EN/05, comply with Schedule 2, Part 1, Class B and Class C respectively of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed:

L Perkins

INSPECTOR

Date: 22 February 2022

Reference: APP/E5330/X/21/3278205

First Schedule

A roof conversion with rear dormer and front Velux roof lights

Second Schedule

Land at 125 Vanbrugh Hill, Blackheath SE10 9HB

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: 22 February 2022

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Land at: 125 Vanbrugh Hill, Blackheath SE10 9HB

Reference: APP/E5330/X/21/3278205

Scale: Not to scale

