



Appeal Decision

Site visit made on 15 March 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal Ref: APP/T5150/X/20/3248242

5 Hillcroft Crescent, WEMBLEY, HA9 8EE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr ZAKI KAJ against the decision of London Borough of Brent.
 - The application ref 19/3687, dated 16 October 2019, was refused by the Council by notice dated 18 December 2019.
 - 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 proposed single storey side extension and rear outbuilding to bungalow.
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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.

Preliminary Matters

2. The appeal form states that the appeal is made under section 191 of 1990 Act, but as it is for a proposed development it should have been made under section 192. I have determined the appeal on this basis.

Main Issue

3. The main issue is whether the Council's refusal to issue the certificate of lawfulness was well-founded.

Reasons

4. The Council's reason for refusal was that proposed outbuilding did not meet the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO"), and the proposal was therefore unlawful.
5. The application form describe the proposal as including 'rear outbuilding to use as storage space'. The application plans show the proposed outbuilding to be of an extremely similar size to the existing outbuilding, and in the same location at the back of the rear garden.
6. The appellant's case is that he needs to replace the existing shed with a properly constructed lockable outbuilding so he can use it for general storage purposes, including some food items that need airtight storage space. It was evident from my observations during the site visit and the photographs submitted as part of the appeal, that the current wooden shed is not

- watertight, and is being used for general household storage associated with the bungalow. It contains shelving and has electricity to provide lighting.
7. As the proposed development would be of a similar size and replace the existing outbuilding, and the stated reason for it to be used for general storage associated with the main dwelling, I am satisfied that the outbuilding is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such, and that it is permitted development under Class E. The existing outbuilding is already being used for storage incidental to the enjoyment of the dwellinghouse, and it is therefore evident that that it is reasonably required.
 8. The application for the certificate of lawful use also related to a proposed single storey extension. The Council, in its delegated decision, set out the requirements and limitations from Class A and, based on the plans submitted with the application, was satisfied that the proposals for the side storey extension met them. I have no reason to doubt the parties on this point and I am satisfied that the proposals for the single storey side extension would therefore be permitted development pursuant to Schedule 2, Part 1, Class A of the GPDO.
 9. 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 proposed single storey side extension and rear outbuilding to bungalow 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.

Zoë Frank's

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 16 October 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, 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 proposed operations would be permitted development pursuant to Schedule 2, Part 1, Classes A and E of the Town and Country Planning (General Permitted Development)(England)(Order) 2015.

Signed

Zoë Franks

Inspector

Date: [06 April 2022]

Reference: APP/T5150/X/20/3248242

First Schedule

Single storey side extension and rear outbuilding to bungalow as shown on plans PA-1911-03, PA-1911-04, PA-1911-05

Second Schedule

Land at 5 Hillcroft Crescent, WEMBLEY, HA9 8EE

IMPORTANT NOTES – SEE OVER

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 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, 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 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: [06 April 2022]

by Zoë Franks Solicitor

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Scale: Not to Scale

