



Appeal Decision

Site visit made on 26 May 2022

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/L5240/X/20/3265702

10 Stanley Close, Coulsdon CR5 2LN

- 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 Allister Yardley against the decision of the Council of the London Borough of Croydon.
 - The application Ref 20/03916/LP, dated 31 August 2020, was refused by notice dated 17 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 described as: Construction of a rear dormer and installation of 3 x rooflights to the front roof slope.
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Decision

1. The appeal is dismissed insofar as it relates to the rear dormer, under Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.
2. The appeal is allowed insofar as it relates to the installation of 3 x rooflights to the front roof slope, under Part 1, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 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

3. I have taken the description in the heading above from the Council's decision notice. This describes the proposal more accurately and clearly than the description used on the application form.
4. Planning Practice Guidance¹ is clear that planning merits are not relevant at any stage in a lawful development certificate application or the appeal process for such an application. Therefore I cannot take them into account. Planning merits include matters such as the effect of the proposal on privacy, light, the character and appearance of the area and maintenance issues.
5. The ground floor extension, outbuilding and flue, referred to in representations received, are not before me in this appeal.

¹ Lawful development certificates, paragraph: 009 Reference ID: 17c-009-20140306

Main Issue

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

Reasons

7. 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.
8. 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.
9. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of development, subject to conditions and limitations. Schedule 2, Part 1, Class B of the Order concerns the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. 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. This is relevant for the proposed roof lights.
10. In section 5 of the application form the appellant has referred to the government's technical guidance. This is further referred to in the appellant's response to third party correspondence. The technical guidance² is an aid to interpretation and application of the Order and so I have had regard to it in this decision.
11. The appellant proposes grey zinc cladding for the dormer. The Council has indicated that the materials used in the exterior work for the roof extension would not be of a similar appearance to those used in the construction of the exterior of the existing dwelling. As such, the proposal would not comply with Schedule 2, Part 1, Class B, paragraph B.2. (a) of the Order. But the appellant states that the cladding is similar in appearance to flashing used on the property and the bay window roof of the house.
12. On page 35 of the technical guidance, under paragraph B.2 (a), it states:
*"the face and sides of a dormer window should be finished using materials that give a similar visual appearance to [the] existing house. So the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the **main roof** of the house when viewed from ground level."* (Emphasis added).
13. Based on the information available to me, and taking into account the technical guidance, the cladding proposed for the dormer would not be of a similar appearance to the materials used in the construction of the exterior of the existing dwellinghouse because its main roof is covered with what appear to be red concrete tiles.

² Ministry of Housing Communities & Local Government, Permitted development rights for householders – Technical Guidance, September 2019

14. In light of the technical guidance, it does not matter whether the cladding would be of a similar appearance to flashing used on the property or the roof of the front bay window of the house. So the proposed dormer would not be lawful.
15. I appreciate that attempts may have been made by the appellant to contact the Council following submission of the application. But this makes no difference as to whether the dormer is lawful or not.
16. The Council has not stated any reason why the proposed rooflights would not be lawful and, taking into account Schedule 2, Part 1, Class C of the Order, I see no reason why they would not be lawful either. I also see no reason why an LDC cannot be granted for the rooflights as a discrete building operation.

Conclusion

17. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the rear dormer, under Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, was well-founded and that the appeal should fail in that respect. However, on the evidence now available, I find that the Council's refusal to grant a certificate of lawful use or development in respect of the installation of 3 x rooflights to the front roof slope, under Part 1, Class C of the same Order, was not well-founded and that the appeal should succeed in that respect. 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 31 August 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 rooflights, shown on the front elevation and roof plan of drawing A3/05, comply with Schedule 2, Part 1, Class C of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

L Perkins

INSPECTOR

Date: 10 June 2022

Reference: APP/L5240/X/20/3265702

First Schedule

Installation of 3 x rooflights to the front roof slope.

Second Schedule

Land at 10 Stanley Close, Coulsdon CR5 2LN

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: 10 June 2022

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Land at: 10 Stanley Close, Coulsdon CR5 2LN

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Scale: Not to scale

