



Appeal Decision

Site visit made on 7 June 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/R5510/X/21/3280569

3 Copse Wood Way, Northwood HA6 2TP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Harrison Reeves against the decision of the Council of the London Borough of Hillingdon.
 - The application ref 22134/APP/2021/1580, dated 21 April 2021, was refused by notice dated 12 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 single storey side/rear extension.
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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 to grant a LDC was well-founded.

Reasons

3. An application under Section 192(1)(b) of the Act seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful at the time of the application. Section 191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
4. In an LDC appeal, the onus is firmly on the appellant to make out their case, on the balance of probabilities. The main thrust of the appellant's case is that the proposed extension would be permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)('the GPDO').
5. Part 1, Class A of Schedule 2 of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse, subject to certain limitations, including (j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (iii) have a width greater than half the width of the original dwellinghouse (ja) any total enlargement (being the enlarged part together with any existing

- enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j).
6. The proposed extension would measure 8m in width. The Council state that the property was granted planning permission, reference 22134/A/81/0234 for a small extension, garage etc. The Council suggests that and that the original dwellinghouse has a width of 11.8m at its widest point, as the garage extension to the side is not original. While the appellant accepts the property has been extended to the side, they state that the original components of the house measured approximately 17m in width and included the kitchen, which was previously a garage, with a dressing room over.
 7. I have not been provided with plans for the above planning permission. Nevertheless, I was able to inspect the property during my site visit. The building is constructed in traditional materials and appears typical of the arts and craft style, with a catslide roof to the rear and dormer windows, with decorative brickwork and stonework. The brickwork used in construction of the garage, although similar to the main dwelling, is not uniform with the brickwork of the original dwelling. Also, stonework detailing is not used below the eaves.
 8. The kitchen, to the rear, by contrast, has design features which are consistent with the main building. No join is evident between the main roof section and the catslide roof, and so I consider it highly likely the tiles were laid at the same time. The brickwork used also appears to be the same, with the bricks laid at a uniform height and the same decorative stonework used beneath the eaves. Given what I saw on site, I consider, on the balance of probabilities, the kitchen and changing room above comprised part of the original dwellinghouse.
 9. Consequently, I find on the balance of probabilities, the proposed extension would not have a width greater than half the width of the original dwellinghouse and would therefore comply with the limitations set out in Part 1, Class A of Schedule 2 of the GPDO.

Conclusion

10. 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 the single storey side/rear extension 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.

M Savage

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 21 April 2021 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:

It has been shown, on the balance of probabilities, that the kitchen to the rear comprised part of the original building and therefore, the proposed extension would comply with the limitations set out in Part 1, Class A of Schedule 2 of the GPDO.

Signed

M Savage

Inspector

Date 04 July 2022

Reference: APP/R5510/X/21/3280569

First Schedule

The construction of a single storey side/rear extension, as shown on the drawings submitted with application 22134/APP/2021/1580, including: 20210303-00, 20210303-01, 20210303-02, 20210303-03, 20210303-04.

Second Schedule

Land at 3 Copse Wood Way, Northwood HA6 2TP

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 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.



The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 04 July 2022

by M Savage BSc (Hons) MCD MRTPI

Land at: 3 Copse Wood Way, Northwood HA6 2TP

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Scale: Not to Scale

