
Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 03 August 2022

Appeal Ref: APP/K3605/X/22/3297318

27 Sunbury Lane, Walton-On-Thames KT12 2HX

- 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 S Sango against the decision of Elmbridge Borough Council.
 - The application Ref 2021/4052, dated 23 November 2021, was refused by notice dated 15 February 2022.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is formation of rooms in roof space including formation of rear dormers and installation of Velux rooflights to the front elevation.
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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 considered to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue a lawful development certificate was well-founded. In this case that turns on whether the development falls within Schedule 2, Part 1, Classes B, C and G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

Reasons

3. The appeal property is a two storey semi-detached residential property which has an original L-shaped layout which incorporates a two storey outrigger to the rear. There is also a single storey element which projects beyond the original two storey dwellinghouse.
4. Although the reason for refusal only identifies the Council's concerns with reference to the relationship between the rearmost dormer and the external wall of the original dwellinghouse it is clear to me that there are also concerns that the eaves of the original roof are not maintained. Consequently, the Council contends that the proposed development does not meet the limitations of Class B, of Part 1, Schedule 2 of the GPDO set out in B.2(b)(i) and B.2(b)(ii).

5. B.2(b)(i) states that the enlargement must be constructed so that the eaves of the original roof are maintained or reinstated *"other than the case of a hip to gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension"*. B.2(b)(ii) is that development is permitted under Class B subject where *"other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse"*.
6. Permitted development rights for householders – Technical Guidance September 2019 (the Technical Guidance) provides helpful guidance on the interpretation of permitted development rights. It clarifies that rear or side extension includes *"an original part of, or a subsequent extension of, the dwellinghouse that extends from the rear of the principal part of the original dwellinghouse"*. In this case the proposed dormer roof extensions would join the roof of the original roof to the roof of the rear outrigger therefore the proposal complies with this condition.
7. Furthermore, the Technical Guidance states that the enlarged part of the roof must not extend beyond the outer face of any wall of the original house if it is to qualify as permitted development unless it joins the original roof of a rear or side extension. The L-shaped dormer extension proposed in this case would link the converted main roof with the space above the original two storey outrigger in an L-shaped arrangement. This is compliant with the requirements of Class B.

Conclusion

8. I conclude that based on the evidence before me and as a matter of planning judgement, the formation of rear roof dormers and installation of Velux rooflights to the front elevation would be compliant with the limitations of Classes B, C and G of Part 1, Schedule 2 of the GPDO.
9. 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 outbuilding was not well-founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A A Phillips

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 23 November 2021 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 formation of rear dormers and installation of Velux rooflights to the front elevation would constitute the enlargement of a dwellinghouse consisting of an addition or alteration to its roof and comply with the limitations set out in Schedule 2, Part 1, Classes B, C and G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

Signed

A A Phillips
INSPECTOR

Date: 03 August 2022

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First Schedule

Formation of rooms in roof space including formation of rear dormers and installation of Velux rooflights to the front elevation.

Second Schedule

Land at 27 Sunbury Lane, Walton-On-Thames KT12 2HX

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: 03 August 2022

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Scale: Do not scale

