



Appeal Decision

Site visit made on 4 October 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/L5240/X/21/3277267

10 Hadley Wood Rise, Kenley CR8 5LY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Angela Morrison against the decision of the Council of the London Borough of Croydon.
 - The application ref 20/05793/LP, dated 9 November 2020, was refused by notice dated 12 March 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 in the application form as: 'The removal of a small green house to build a small utility room. All external materials are to match the existing house. The roof drainage will be connected onto the existing drainage system'.
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Summary of Decision

1. The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the proposed development would constitute permitted development by virtue of the provisions of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

3. Class A, Part 1 of Schedule 2 of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse, subject to conditions and limitations. Paragraph A.1(j)(iii) states that such development will not be permitted where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse. Paragraph A.1(ja) clarifies that development will not be permitted where any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it would be joined) would exceed the limits set out in paragraph A.1(j), amongst other things.
4. Article 2 of the GPDO clarifies that 'original' means, in relation to a building which is not Crown land, as it existed on 1 July 1948, or, if built on or after that date, as so built. The appeal dwelling is not Crown land.

5. The Council has claimed the proposed extension would not comprise permitted development under Class A because it would adjoin a non-original flat roofed single storey rear projection to the appeal dwelling. Taken together, the combined width of the proposed extension and the existing flat roofed single storey rear projection would exceed half the width of the original dwellinghouse. The Council has not provided any explanation or evidence to support its view that the flat roofed rear projection is a non-original extension to the appeal dwelling.
6. The appellant has explained in detail how the flat roofed single storey projection at the rear of the appeal dwelling was constructed as part of the original building and is not a later extension. I have been referred to a photograph of the rear elevation of 15 Hadley Wood Rise which shows a matching flat roofed single storey rear projection, which is claimed to form part of the original construction of that dwelling in a matching style. This correlates with a marketing brochure for the development of Hadley Wood Rise, which refers to the 'House A3' design and shows floor plans which mirror those of the appeal dwelling, with a single storey rear projection. The Land Registry plan for the appeal site also shows similar footprints for 10, 14, 15, 16, 21 and 23 Hadley Wood Rise, which, it has been explained, were all built in the style of House A3 including their rear projections.
7. In addition to the above, it is evident that the brickwork of the single storey rear projection matches, and is entirely consistent with, the main side and rear elevations of the appeal dwelling. There is no evidence to suggest the single storey rear projection is an addition following the original construction of the appeal dwelling. I therefore find, on the balance of probabilities, that the evidence demonstrates the flat roofed single storey rear projection was constructed as part of the original dwelling in 1976.
8. The proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse. However, it would not adjoin any existing enlargement of the original dwellinghouse. The proposed extension would have a width of 2.137m, which would be substantially less than half the width of the original dwellinghouse. It has been demonstrated that the proposed development would be permitted development under Class A, Part 1 of Schedule 2 of the GPDO.

Conclusion

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 the removal of a small green house to build a small utility room in the terms set out above 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.

Formal Decision

10. 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.

L Douglas

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 9 November 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 proposed extension would constitute development within the meaning of section 55 of the Town and Country Planning Act 1990 (as amended), for which planning permission is required. Planning permission is granted by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed extension as shown in the plans titled 'Proposed plans', drawing number 07, dated 7 October 2020, since that development would fall within Class A, Part 1 of Schedule 2 of that Order. The proposed extension would therefore be permitted development.

Signed

L Douglas
Inspector

Date: 25 October 2022

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First Schedule

The removal of a small green house to build a small utility room. All external materials are to match the existing house. The roof drainage will be connected onto the existing drainage system.

Second Schedule

Land at 10 Hadley Wood Rise, Kenley CR8 5LY

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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 25 October 2022

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Scale: Not to Scale

