



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/21/3284978

15 Bencombe Road, Purley CR8 4DR

- 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 Mr Lingam Kumar against the decision of the Council of the London Borough of Croydon.
- The application ref 21/04690/LP, dated 11 September 2021, was refused by notice dated 22 September 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: '4 m rear extension, altering the internal layout and extension to second floor with a dormer either side of the roof. Associated works to carry out the alterations described'.

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

Preliminary Matter

1. The Council's officer report sets out that the proposed roof extensions and rebuilding of the porch would constitute permitted development under the provisions of Classes B and D, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). I see no reason to conclude otherwise in respect of these parts of the proposal.

Main Issue

2. Taking the above into account, 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 rear extension would constitute permitted development by virtue of the provisions of Class A, Part 1 of Schedule 2 of the 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(d) states that such development will not be permitted where the height of the eaves of the part of the dwellinghouse enlarged would exceed the height of the eaves of the existing dwellinghouse.
4. The Council considers that the height of the eaves of the proposed single storey rear extension would exceed the height of the eaves of the existing dwellinghouse. No explanation has been provided as to where the Council has taken the height of the eaves of the existing dwellinghouse from, or where the

Council has taken the height of the eaves of the proposed single storey extension from.

5. The appellant has referred to the Government's Technical Guidance¹. The Technical Guidance advises that for the purposes of measuring height in respect of paragraph A.1(d), the eaves of a house are the point where the lowest point of a roof slope, or a flat roof, meets the outside wall. The guidance also advises that the height of the eaves will be measured from the ground level at the base of the external wall of the extension to the point where the external wall would meet (if projected upwards) the upper surface of the roof slope.
6. The Technical Guidance includes diagrams which clearly show how to measure the height of the eaves of flat and pitched roofs. I concur with the advice of the Technical Guidance and find the diagrams provided help avoid any ambiguity.
7. Following the advice set out in the Technical Guidance, the appellant has enlarged and annotated part of the proposed plans to show more clearly that the eaves of the proposed single storey rear extension would be 20mm lower than the eaves of the existing dwelling. There is no evidence which leads me to doubt these measurements. The proposed plans therefore show the eaves of the proposed single storey rear extension would be lower than the eaves of the existing dwellinghouse. The evidence demonstrates that the proposed rear extension would be permitted development under the provisions of Class A, Part 1 of Schedule 2 of the GPDO.

Conclusion

8. 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 proposed 4 m rear extension, altering the internal layout and extension to second floor with a dormer either side of the roof and associated works to carry out the alterations described 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

9. 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

¹ Permitted development rights for householders (September 2019)

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 11 September 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:

The proposal 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 development as shown in the plans titled Location Plan G1 - 01 P0, Block Plan G1 -02 P0, Floor plans G1 - 10 P0, Floor plans G1 - 11 P0, Roof plan G1 - 12 P0, Elevations G1 - 30 P0, Elevations G1 - 31 P0, Elevations G1 - 32 P0, Elevations G1 - 33 P0, Floor plans G1 - 110 P0, Floor plans G1 - 111 P0, Roof plan G1 - 112 P0, Elevations G1 - 130 P0, Elevations G1 - 131 P0, Elevations G1 - 132 P0, and Elevations G1 - 133 P0. This is because that development would fall within Classes A, B and D, Part 1 of Schedule 2 of that Order. The proposed development would therefore be permitted development.

Signed

L Douglas
Inspector

Date: 25 October 2022
Reference: APP/L5240/X/21/3284978

First Schedule

4 m rear extension, altering the internal layout and extension to second floor with a dormer either side of the roof. Associated works to carry out the alterations described.

Second Schedule

Land at 15 Bencombe Road, Purley CR8 4DR

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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Land at: 15 Bencombe Road, Purley, CR8 4DR

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Scale: Not to Scale

