



Appeal Decision

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 May 2023

Appeal Ref: APP/F5540/X/22/3303943
29 Sutton Hall Road, Hounslow TW5 0PX

- 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 Cranford Property Ltd against the decision of the Council of the London Borough of Hounslow.
- The application Ref 01093/29/LAW2, dated 25 May 2022, was refused by notice dated 22 June 2022.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended ('the 1990 Act').
- The development for which a certificate of lawful use or development is sought is described in the application as a loft conversion with rear dormer, roof profile change from hip to gable, side extension roof change from pitch roof to flat roof.

Summary 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 Matters

1. On reviewing the appeal documents it appeared to me that the appeal was capable of determination without a site observation. The parties' views were sought and there was no dissent. Accordingly, I have not visited the site.
2. The proposal is described slightly differently in the Council's decision notice, as 'the erection of a rear roof extension with a hip to gable conversion and three front roof windows incorporating the change of the side extension roof from pitch to a flat roof'. The appellant has adopted this description in its appeal statement and hence, although there appears to me no significant difference between the two, I shall adopt it too.
3. That decision notice purports to certify that the proposal was, on the relevant date, 'not lawful'. Although not appearing to reflect the relevant provisions of the 1990 Act, which does not provide for certificates concerning what is not lawful, as opposed to what is, the notice is substantively one of refusal.

Main Issue

4. The main issue in the appeal is whether the proposed works as described above benefit from the planning permission conferred by article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order'). The Council having confirmed that no Article 4 Direction or other restriction applies, the question for determination is whether the proposal is aptly described by any of the classes of development described as permitted development in Schedule 2 to the Order, and if so whether it would be prohibited or restricted for any reason.

Reasons

5. The Council refer to a number of restrictions in Class A of Part 1 of Schedule 2 to the Order. That Class confers permission for the enlargement, improvement or other alteration of a dwellinghouse.
6. The Council say that the development would not be permitted under that Class by reference to paragraphs (f) (h) and (j) of paragraph A.1. However the shorter answer is that the proposals would not be permitted as a result of paragraph (k), which provides that development is not permitted by Class A if it would consist of or include an alteration to any part of the roof of the dwellinghouse.
7. The appellant contends that the proposed development is authorised by Class B, which confers permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Although the works here involve some demolition of the existing roof, it appears that the hip-to-gable extension and the proposed rear dormer would collectively exceed the cubic volume of the existing part of the roof to be demolished, and hence the dwellinghouse would be enlarged, as required by Class B. Class C permits other roof alterations.
8. As to whether the enlargement would consist of an addition or alteration to the roof of the dwellinghouse, the plans submitted show that all the proposed changes are to take place at or above the existing eaves, and so I am satisfied that the development is aptly described by Class B. The Council's reason for refusing the application refers to alterations to the existing side extension, but has not elaborated on what those might be. The proposal does involve some incidental demolition to reduce the existing parapet wall to the edges of the existing side extension; but, as this is to take place only as far down as the existing eaves, it is nonetheless fair to characterise the works as a whole as amounting to the enlargement of the dwellinghouse consisting of an addition or alteration (or, in this case, both) to its roof.
9. Turning then to whether the development is not permitted for any reason set out in paragraph B.1, the Council have not identified any such restriction. It appears to me that there is potentially some conflict with paragraph (c) because the roof plane of the hip-to-gable extension to the principal roof would extend beyond the plane of the existing recessed roof from the side extension which forms part of the principal elevation fronting the highway. However, this itself is to be demolished and converted to a flat roof and so, although 'existing' now, it would not be in existence for the purposes of paragraph (c) as a consequence of the development works. In any event the alteration of that element could be achieved pursuant to Class C.

Conclusion

10. For these reasons I conclude that the proposed works are appropriately described by the permission conferred by Class B, and that no relevant restriction would apply to prevent reliance on this Class. 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 erection of a rear roof extension with a hip to gable conversion and three front roof windows incorporating the change of the side extension roof from pitch to a flat roof 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

11. 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.

Laura Renaudon

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 25 May 2022 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 development would, at the date of the application, have been permitted by article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Laura Renaudon

Inspector

Date: **23 May 2023**

Reference: **APP/F5540/X/22/3303943**

First Schedule

Erection of a rear roof extension with a hip to gable conversion and three front roof windows incorporating the change of the side extension roof from pitch to a flat roof, in accordance with plans and drawings submitted with the application:

XEVA/29SHR/101- A - PLANS
XEVA/29SHR/102- A - PROPOSED PLANS
XEVA/29SHR/103- A - EXISTING ELEVATIONS
XEVA/29SHR/104- A - PROPOSED ELEVATIONS
XEVA/29SHR/105- A - SECTION AND CALCUALTIONS
XEVA/29SHR/106- A - SITE PLAN
OS MAP

Second Schedule

Land at 29 Sutton Hall Road, Hounslow TW5 0PX

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:

by Laura Renaudon LLM LARTPI Solicitor

Dated: 23 May 2023

Land at: 29 Sutton Hall Road, Hounslow TW5 0PX

Reference: APP/F5540/X/22/3303943

Scale: DO NOT SCALE

