The Planning Inspectorate

Appeal Decision

Site visit made on 11 July 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/L5240/X/22/3304933
16 Ravenswood Road, Croydon CR0 4BL

- 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 Peter Ball against the decision of London Borough of Croydon.
- The application ref 22/02033/LP, dated 16 May 2022, was refused by notice dated 27 July 2022.
- 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 rear extension and internal alterations.

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.

Applications for costs

2. An application for costs was made by Mr Peter Ball against the Council of the London Borough of Croydon. This application is the subject of a separate decision.

Reasons

3. The appeal property is an end of terrace dwelling. The certificate seeks to establish whether a rear extension would be lawful. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful. The appeal is against the refusal of the Council to issue the LDC. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The Council has indicated that, despite its refusal of the LDC application, it now considers that the proposed development was lawful at the date of application.

4. Class A Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), sets out the permitted development right for enlargements, improvements or other alteration of a dwellinghouse. Paragraph A.1(f) states that development is not permitted if it would extend more than 3 metres beyond the rear wall of the original dwellinghouse. Paragraph A.1(g) sets out that development is not permitted by Class A if, in the case of a house that is not detached, the extension would extend beyond the rear wall of the original dwellinghouse by more than 6 metres. Paragraph A.1(g) is subject to the condition contained in Paragraph A.4.

5. The condition requires that prior approval of the local planning authority is sought before beginning the development. Paragraph A.4(10) states that development must not begin before either the local planning authority provides a written notice that prior approval is not required, or that prior approval is given, or the expiry of 42 days following the date on which the information was received by the local planning authority, without the local planning authority notifying the developer as to whether prior approval is given or refused.

6. In this case, an application was made for prior approval of a single storey rear extension projecting 6 metres from the rear wall of the house under reference 22/01165/GPDO. The application form is dated 18 March 2022. The Council's decision notice states that the application was received on 22 March 2022. The Council issued a decision on 16 May 2022, stating that as the local planning authority, it has 'resolved prior approval no jurisdiction'. It is not clear what the decision was intended to signify, as it does not state whether prior approval is required, given or refused. In any event, it was dated after the expiry of 42 days following 22 March 2022. Therefore, the condition in paragraph A.4 has been complied with.

7. On the basis of the information before me, I have no reason to differ from the view of both parties that the extension would benefit from the permitted development rights set out in Class A of Part 1 Schedule 2 of the GPDO, and was therefore lawful at the date of application.

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 rear extension and internal alterations 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.

N Thomas

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 16 May 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black 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 operations are permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Signed

N Thomas

Inspector

Date: 14 July 2023

Reference: APP/L5240/X/22/3304933

First Schedule

Rear extension and internal alterations

Second Schedule

Land at 16 Ravenswood Road, Croydon CR0 4BL

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 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 not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

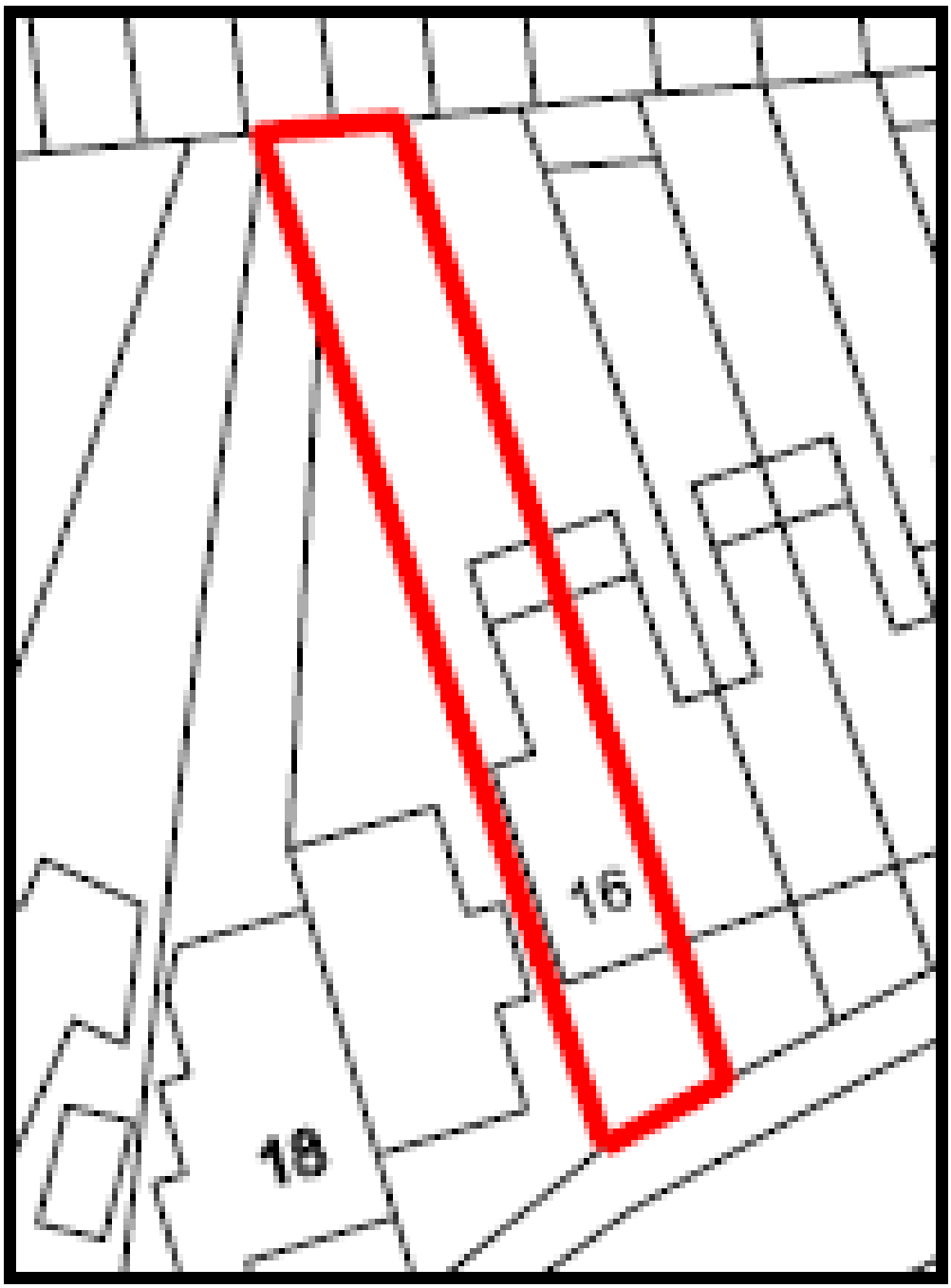
The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 14 July 2023

by N Thomas MA MRTPI

Land at: 16 Ravenswood Road, Croydon CR0 4BL

Reference: APP/L5240/X/22/3304933

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