



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/Z5060/X/23/3322297

7 Clare Gardens, Barking IG11 9JG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Ms Bharti Pankhania against London Borough of Barking and Dagenham.
- The application ref 22/02000/CLUP is dated 22 November 2022.
- The application was made under section 192(1)(b) of the Act.
- The development for which an LDC is sought is 'Roof profile change from hip to gable, loft conversion with rear dormer and front skylights'.

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

Reasons

2. The Appellant claims that the proposed development is permitted under Class B of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 GPDO). The Council refused the application because, in their view, the development does not comply with condition B.2(b)(ii), which states that the enlargement must be constructed so that "...no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse".
3. It is the 'hip to gable' element of the proposed development that concerns the Council; in particular the verge overhang of the proposed new part of the roof. Paragraph B.4 of the 2015 GPDO states that "For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards, and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement". The Council failed to take into account paragraph B.4. The verge overhang is a minor roof detail to which barge boards would be attached. It would be the only part of the proposed development that would extend beyond the gable wall and is not, given paragraph B.4, to be considered part of the enlargement. The proposed development is therefore permitted under Class B of Part 1 of Schedule 2 of the 2015 GPDO.
4. For the reasons given the Council's refusal to grant an LDC for 'Roof profile change from hip to gable, loft conversion with rear dormer and front skylights' at 7 Clare Gardens, Barking was not well-founded and the appeal thus succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite 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 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched 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 development permitted under Class B of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Signed

John Braithwaite

Inspector

Date: 15 November 2023

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First Schedule

Roof profile change from hip to gable, loft conversion with rear dormer and front skylights

Second Schedule

Land at 7 Clare Gardens, BARKING, IG11 9JG

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, 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 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: 15 November 2023

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Land at: 7 Clare Gardens, Barking IG11 9JG

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Scale: Not to Scale

