



Appeal Decision

Site visit made on 26 September 2023

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/T5150/X/22/3306582

50 Rucklidge Avenue, London NW10 4PS

- 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 Ramesh Mavji Pindoria against the decision of London Borough of Brent.
 - The application ref 22/1806, dated 17 May 2022, was refused by notice dated 12 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 a Proposed Loft Conversion, formation of rear and outrigger dormers, insertion of front roof lights.
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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.

Main Issue

2. The main issue is whether the decision of the Council to refuse the application for a certificate was well founded, having regard to the volume of the proposed roof extensions.

Reasons

3. The appellant seeks to construct a loft conversion at the appeal property, comprising of the formation of dormers to the rear roof plane and that of the rear outrigger, together with the insertion of roof lights to the front roof plane. The only matter in dispute between the parties is whether or not the proposal accords with the conditions set out in paragraph B.1(d) of Class B, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, which states, as far as is applicable to this appeal, that development is not permitted by Class B if:
 - (d) *the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—*
 - (i) *40 cubic metres in the case of a terrace house, or*
 - (ii) *50 cubic metres in any other case;*
4. As the property is part of a terrace, the relevant limitation in this case is 40 cubic metres (m³). The Council, within its Delegated Report, set out the purported dimensions of the proposed roof extensions, which reach a total of 49.66 m³. However, it is unclear how these measurements have been calculated, other than to state that they are the Officer's calculations.

5. The application was accompanied by detailed scale plans showing the proposed works, which included a breakdown calculation of the proposed development. These have been re-iterated by the appellant within the appeal documents and supplemented by a drawing of the roof alterations with dimensions, which indicate that the combined total volume of the rear and outrigger dormers would be 38.84m³. This is consistent with the calculations submitted with the application.
6. Given the detailed submission of the appellant, against the unclear calculations of the Council, I find that the proposal would comply with paragraph B.1(d) of Class B, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, and thus is permitted development.

Conclusion

7. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful development in respect of a Proposed Loft Conversion, formation of rear and outrigger dormers, insertion of front roof lights, 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.

Martin Allen

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 17 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:

Paragraph B.1(d) of Class B, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, states, as far as is applicable to this appeal, that development is not permitted by Class B if:

- (d) *the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—*
 - (i) *40 cubic metres in the case of a terrace house, or*
 - (ii) *50 cubic metres in any other case;*

Given that the volume of the proposed formation of rear and outrigger dormers would not exceed 40m³, the development would comply with paragraph B.1(d) of Class B, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, and thus is permitted development.

Signed

Martin Allen

INSPECTOR

Date: 27 November 2023

Reference: APP/T5150/X/22/3306582

First Schedule

Proposed Loft Conversion, formation of rear and outrigger dormers, insertion of front roof lights.

Second Schedule

Land at 50 Rucklidge Avenue, LONDON, NW10 4PS

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: 27 November 2023

by Martin Allen BSc (Hons) MSc MRTPI

Land at: 50 Rucklidge Avenue, London NW10 4PS

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Scale: Not to Scale

