



Appeal Decision

Site visit made on 17 December 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/D5120/X/23/3330451

7 Beechcroft Avenue, Bexley, Bexleyheath DA7 6QR

- 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 Mr Michael McLeary against the decision of the Council of the London Borough of Bexley.
 - The application Ref 23/01824/LDCP, dated 24 July 2023, was refused by notice dated 22 September 2023.
 - 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 as "hip to gable, rear dormer extension with one roof light in the front roof slope."
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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 considered to be lawful.

Preliminary Matters

2. The certificate seeks to establish whether the works would have been lawful on the date of the application. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. 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 case must be considered solely on the facts of the case, the relevant planning law and judicial authority, and its planning merits are of no relevance. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.

Main Issue

3. The main issue is whether the Council's refusal to grant the LDC was well founded. It is necessary to consider whether the proposed extension would be granted planning permission by Article 3, Schedule 2, Part 1, Class B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO), at the date of the application.

Reasons

4. The appeal property comprises a two-storey semi-detached house. The property has been previously extended with a single storey side extension. Planning permission has recently been granted for a part one/part two storey front, side and rear extension (Council ref: 23/01224/FUL).
5. The proposed development involves the erection of a hip to gable roof extension together with a rear dormer above the roof of the original house and the two-storey side extension.
6. Subject to limitations and conditions, Class B of Schedule 2, Part 1 of the GPDO permits 'additions etc to the roof of a dwellinghouse', and Class C of Schedule 2, Part 1 of the GPDO permits 'other alterations to the roof of a dwellinghouse'. There is no dispute between the parties that the development falls to be considered under Class B and C.
7. The Council's sole reason for refusal states that the property has previous been extended to the side and the existing drawing does not show any original and therefore, Officers are unable to accurately calculate the resultant roof space. However, the plans submitted do show the original (existing) and the proposed floor plans and elevations, and thus it is possible to calculate the proposed volume of roof space. Furthermore, the proposed plans and elevation drawing submitted show the proposed roof volume calculation which indicates that there would be a total increase in volume of 49.4 cubic metres. In the absence of any evidence from the Council on this matter, I have based my assessment on the measurements provided by the appellant.
8. From my reading of the drawings and the appellant's measurements, the proposed loft extension would not exceed 50 cubic metres of the existing dwellinghouse. Therefore, the development would not fail to meet the limitation under Paragraph Class B.1 (d) of Schedule 2, Part 1, Class B of the GPDO.
9. The Council's decision raised no other objections to the proposed development, and I have found no reason to disagree with these findings.

Conclusion

10. 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 hip to gable and rear dormer extension with one roof light in the front roof slope was not well-founded and that the appeal should succeed. I exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Satheesan

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 24 July 2023 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 development is “permitted development” falling within Classes B and C of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for which planning permission is granted by Article 3(1) of that Order.

Signed

R Satheesan
Inspector

Date 20 December 2024
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First Schedule

Hip to gable, rear dormer extension with one roof light in the front roof slope

Second Schedule

Land at 7 Beechcroft Avenue, Bexley, Bexleyheath DA7 6QR

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: 20 December 2024

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Land at: 7 Beechcroft Avenue, Bexley, Bexleyheath DA7 6QR

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Not to scale

