



Appeal Decision

by Thomas Shields DipURP, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/C1950/X/23/3329920

65 Heathcote Avenue, Hatfield, AL10 0RQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against a refusal in part to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Tayo Fiola against the decision of Welwyn Hatfield Council.
- The application Ref: 6/2023/1289/LAWE, dated 6 July 2023, was refused by the Council by notice dated 24 August 2023.
- The application was made under section 191(1)(a) of the Act.
The development for which a certificate of lawful use or development is sought is existing rear extension and roof extension with rear dormer.

Summary of Decision: The appeal is allowed in part and a certificate of lawful use or development is issued in the terms set out below in the formal decision. The appeal is otherwise dismissed.

Main Issue

1. The main issue is whether the Council’s decision not to issue an LDC was well founded. This turns on whether the development benefits from the planning permissions (“permitted development”) available for development within the curtilage of a dwellinghouse under Article 3 and Schedule 2, Part 1, Classes A and B of the Town and Country Planning (General Permitted Development) (England) Order 2015.
2. My decision is based solely on the appellant’s drawings and information submitted to the Council with application 6/2023/1289/LAWE.

Reasons

3. There is no dispute that the roof extension and rear dormer as detailed in the submitted drawings are permitted development within Class B. I have no reason to come to a different conclusion and hence I conclude that this part of the development as shown in the drawings is lawful.
4. The submitted drawings show that the single storey rear extension extends beyond the rear wall of the original dwellinghouse by 4 metres. This exceeds the 3m limit for such extensions to semi-detached houses in Class A.1(f).
5. Extensions which exceed the limits in Class A.1(f), but meet the requirements of Class A.1(g), may be permitted development if they satisfy the prior approval requirements and conditions at Class A.4. However, no prior approval has been granted by the Council and hence the rear extension is not permitted development and cannot be lawful.
6. The appellant states that an earlier application for prior approval had previously been submitted to the Council but was withdrawn before it was determined. This

withdrawal appears to be on the advice of the Council because development had already commenced on site, meaning that prior approval, i.e. approval **before** works commence under Class A.4(2), was no longer available.

7. Notwithstanding any dispute between the parties regarding past correspondence with each other, it is clear that no prior approval has been granted by the Council and the development has been carried out. Consequently, the rear extension is not permitted development and is not lawful.

Conclusion

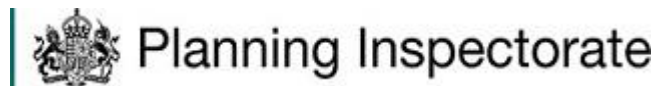
8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC in respect of the roof extension and rear dormer was not well-founded and that the appeal should succeed in this respect alone. I will exercise the powers transferred to me under section 195(2) of the Act in that regard.
9. However, I further conclude on the same basis that the Council's decision not to grant a LDC in respect of the single storey rear extension was well-founded and that the appeal should fail in this respect. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act in that regard.

Formal Decision

1. The appeal is allowed in part, insofar as it relates to the roof extension with rear dormer, but is dismissed insofar as it relates to the single storey rear extension, at 65 Heathcote Avenue, Hatfield, AL10 0RQ. Attached to this decision is a certificate of lawful use or development describing the existing operations which are considered to be lawful.

Thomas Shields

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 6 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The roof extension and rear dormer as shown in the submitted drawings MH/65/2023/A and MH/65/2023/E is development that benefits from deemed planning permission granted by Article 3, and Class B of Part 1, to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Thomas Shields

INSPECTOR

Date: 14 January 2025

Reference: APP/C1950/X/23/3329920

First Schedule

Roof extension and rear dormer as shown in the submitted application drawings MH/65/2023/A and MH/65/2023/E

Second Schedule

Land at 65 Heathcote Avenue, HATFIELD, AL10 0RQ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 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 was 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 14 January 2025

by Thomas Shields

Land at: 65 Heathcote Avenue, HATFIELD, AL10 0RQ

Reference: APP/C1950/X/23/3329920

Scale: Not to Scale

