



Appeal Decision

Site visit made on 19 March 2025

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2025

Appeal Ref: APP/Q5300/X/23/3334936

57 Grosvenor Road, Enfield, Edmonton N9 8RG

- 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 Mrs Emine Korusoy against the decision of the Council of the London Borough of Enfield.
 - The application ref 23/03156/CEU, dated 26 September 2023, was refused by notice dated 16 November 2023.
 - The application was made under section 191(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 a side and rear dormer extension and loft conversion. Single storey rear extensions at ground floor level (approved under prior approval ref: 21/02741/PRH).
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the extent of the existing operation which is found to be lawful.

Preliminary Matters

2. The site visit was arranged as an accompanied visit, but the Local Planning Authority's (LPA) representative was absent at the pre-arranged time of the visit. I was able to proceed with the visit with the appellant's representative present, and on an access required basis only. I was satisfied that I was able to see all I needed to determine the case, and the parties were subsequently informed of this.
3. The LPA's concerns are limited to the side and rear dormer extension. The appellant states that the single storey rear extensions have already been assessed by the LPA as not requiring planning permission (albeit there is no evidence before me to confirm this to be the case), and so they have confirmed that this element does not form part of their appeal. Therefore, my assessment and determination will focus solely on the lawfulness, or otherwise, of the rear and side dormer extension and loft conversion.

Main Issue

4. The main issue in this case is whether the LPA's refusal to grant the LDC was well-founded. This turns on whether, at the time of the application, the side and rear dormer extension was permitted development, and therefore granted planning permission by Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

Reasons

5. Section 191(4) of the Town and Country Planning Act 1990, as amended, (the Act) indicates that if, on an application under that section, the LPA are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
6. In order for a LDC to be granted under section 191 of the Act, it is necessary for the appellant to demonstrate, on the balance of probabilities, that the use or operations were lawful at the time of application, that being 26 September 2023. Planning merits form no part of the assessment of an application for a LDC, which is instead considered on the facts of the case and any relevant judicial authority.
7. The appeal property is a mid-terrace two-storey dwellinghouse, with a two-storey outrigger to the rear. The development subject to this LDC appeal is the construction of a side and rear facing dormer roof extension that forms an L-shaped footprint over the main rear roof slope and extending over the roof slope of the two-storey outrigger.
8. Development consisting of the enlargement of a dwellinghouse by an addition or alteration to its roof is generally permitted by Article 3 and Schedule 2, Part 1, Class B of the GPDO, subject to various limitations and conditions. One such condition being, at paragraph B.2(b)(i)(bb) of Class B, that the enlargement must be constructed so that the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves.
9. However, this requirement is qualified by the text at paragraph B.2(b)(i) which states: 'other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension-' (my emphasis). This provides an exemption from the 0.2 metre setback requirement for the types of roof enlargement specified. Paragraph B.4.(b) clarifies that a "rear or side extension" includes an original part of, or subsequent extension of, the dwellinghouse that extends from the rear or side of the principal part of the original dwellinghouse.
10. In this case, the development has involved an enlargement which joins the original roof of the dwellinghouse to the roof of a rear extension – the rear outrigger. Therefore, the exemption set out at B.2(b)(i) applies in this case, and so there is no requirement for the enlargement to be setback from the eaves by 0.2 metres.
11. The external walls of the roof enlargement have been set flush with the side elevation of the rear outrigger, and flush with the rear elevation of the main part of the dwellinghouse. Consequently, there is no set back from the eaves. However, I have found that a setback is not required for this type of enlargement to qualify as permitted development.
12. The LPA have not cited conflict with any of the other conditions or limitations set out in Schedule 2, Part 1, Class B of the GPDO. On the evidence before me, I see no reason to take a different view.
13. Consequently, bringing all these points together, the appellant has demonstrated, on the balance of probabilities, that the side and rear dormer extension and loft

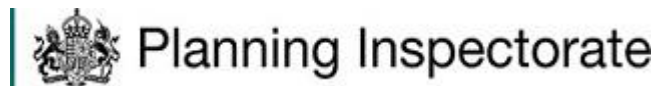
conversion was permitted development having regard to the relevant provisions of the GPDO. Therefore, this operational development was lawful.

Conclusion

14. For the reasons given above, I conclude that the LPA's refusal to grant a certificate of lawful use or development for a side and rear dormer extension and loft conversion was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

J M Tweddle

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 26 September 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 operations were permitted by Article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

J M Tweddle

Inspector

Date: 03 April 2025

Reference: APP/Q5300/X/23/3334936

First Schedule

Side and rear dormer extension and loft conversion.

Second Schedule

57 Grosvenor Road, Enfield, Edmonton N9 8RG

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 were 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 03 April 2025

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

Land at: 57 Grosvenor Road, Enfield, Edmonton N9 8RG

Reference: APP/Q5300/X/23/3334936

Scale: Not to Scale

