



Appeal Decision

Site visit made on 2 September 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/M5450/X/23/3334807

3 Wetheral Drive, Stanmore, Harrow HA7 2HG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr & Mrs Mukesh Geeta Hirani against the decision of the Council of the London Borough of Harrow.
- The application ref P/1342/23, dated 8 May 2023, was refused by notice dated 3 July 2023.
- The application was made under section 191(1)(b) of the 1990 Act (as amended).
- The development for which a certificate of lawful use or development is sought is alterations to roof to form end gable, rear dormer, insertion of rooflight in front roof slope and window in side of end gable.

Formal Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the appeal form and the decision notice, rather than the application form. This is because the description contained in the appeal form and the decision notice more accurately reflects the scope of the development which was submitted and determined by the Local Planning Authority (LPA) and is now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the description in the appeal form and decision notice for the purposes of the heading above.

Main Issue

3. The main issue in this case is whether the LPA's refusal to grant the LDC was well-founded. The onus is on the appellant to prove their case to the standard of the balance of probabilities¹. The question is therefore whether, at the time of the application, the roof extension including a gable and rear dormer were 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

4. The appeal site is a two storey (albeit habitable accommodation in the roof space) semi-detached dwellinghouse located in Wetheral Drive close to the junction with Weston Drive in Stanmore. From the evidence before me, the property originally consisted of a hipped roof to the main ridge. However as with many other semi-detached properties in Wetheral Drive, towards the rear of the property was a subservient two-storey protrusion to the flank elevation. This also contained a

¹ *Thrasivoulou v SSE & Hackney LBC* (No 1) [1984] JPL 732

hipped roof with similar angles to the main roof. Given this layout, the appeal site included two roof slopes which fronted the principal elevation at Wetheral Drive. I have highlighted the relevant roofs in green (the main roof) and yellow (subserving roof) on the figure below.



5. Schedule 2, Part 1, Class B of the GPDO confirms that the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is 'permitted development' (PD), so long as it does not breach any of the limitations set out at paragraph B.1. The Council have suggested that the development as built breaches several of the limitations set out at paragraph B.1 and also does not comply with the conditions contained at paragraph B.2.
6. Paragraph B.1 (c) of the GPDO states that development is not considered PD if *'any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.'*
7. The Permitted Development for Householders: Technical Guidance (TG)², provides assistance in the interpretation and application of the GPDO. The TG highlights the principal elevation could include more than one roof slope facing in the same direction, e.g. where there is an 'L' shaped frontage. In such cases, the TG further highlights that all such roof slopes will form the principal elevation and the line for determining what constitutes 'extends beyond the plane of any existing roof slope' will follow these slopes.
8. The existing development includes an extension to the roof of the subservient two-storey protrusion on the flank elevation (shown in yellow above). This is to create an en-suite bathroom. The resulting walls of the en-suite provide an alteration on a roof plane that forms the principal elevation of the dwellinghouse and fronts a highway. Accordingly, the scheme does not comply with the limits and conditions of PD, as set out in Schedule 2 Part 1 Class B.1 (c) of the GDPO and subsequently planning permission is required.
9. The LPA have also indicated that the development as built would breach paragraph B.1 (b) in that as a result of the works, the extension would exceed the

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height of the highest part of the existing roof. However, as I have already found that the development would require planning permission, paragraph B.1 (b) does not therefore fall to be considered. Similarly, the conditions at paragraph B.2 of Schedule 2, Part 1 relate to development which is permitted by Class B, and as I have found the loft extension is not considered PD by this class, these matters do not fall to be considered either.

Other Matters

10. I am sympathetic to the appellant's position in that they are seeking consistency in decision making from the LPA. Whilst the appellants make several references to other LDC decisions taken by the LPA in the vicinity, which demonstrate inconsistency in decision making, I am not bound by these decisions. I would also acknowledge that there appears to be a degree of inconsistency in the LPA's approach, however I can only consider whether the development before me is lawful, based on the submitted evidence. As no permission for the development as built, had been obtained by the time the application was made, for the reasons above it was not a lawful development.
11. The appellant also highlights a lack of objection to the development as built and that several letters of support have been received. I have noted the absence of local objection to the scheme, however an LDC decision rests on the specific facts of the case and the application of relevant and established case law. Planning merits do not form part of the consideration of an LDC appeal and thus are not relevant here. Consequently, I have dealt with the appeal on the basis of the facts of the case before me, evidence presented and my site observations.
12. Whilst the development as constructed does not benefit as PD under the GPDO, following my decision it would be incumbent on the parties to enter into negotiations to seek a potential solution. These negotiations should not preclude the appellant seeking to apply for planning permission for the development as built or an amended scheme, if appropriate.

Conclusion

13. For the reasons above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a loft conversion with rear dormer was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR