



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2025

Appeal Ref: APP/Q5300/X/24/3345472

54 and 54A Burford Gardens, Enfield, Southgate N13 4LP

- 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 Kassim Pinjara against the decision of the Council of the London Borough of Enfield.
 - The application ref 24/00718/CEA, dated 5 February 2024, was refused by notice dated 13 May 2024.
 - The application was made under section 192(1)(a) and (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 conversion of two flats back into a single dwellinghouse with single storey rear extension and loft conversion with dormer.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the relevant date for determining whether the proposed development would be lawful, is the date of the application, and the parties have submitted sufficient evidence to understand the nature of the site given the dispute.
3. The purpose of an application made under section 192 of the Act is to find out whether proposed development, as described in the application form and shown on the drawings, would be lawful if instituted or begun at the time of the application, it is not the equivalent, in law, of a planning permission. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities.
4. The planning merits of the proposed development are not relevant to this appeal. My decision rests on the facts of the case and the interpretation of any relevant planning law.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

6. The appeal site is a mid-terraced property which was built as, and previously in use as a single dwellinghouse, but lawfully converted into two self-contained flats. The Council stated that the proposed change of use from two flats into a single

dwellinghouse would not constitute a material change of use and therefore there would be no development involved, and planning permission is not required. I have no reason to take a different view.

7. Article 2(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) states that a 'dwellinghouse' does not include a building containing one or more flats, or a flat contained within such a building. Thus, there are no permitted development rights under Part 1 for development within the curtilage of a building that is in use as one or more flats or is entirely used for separate self-contained flats.
8. The appellant's case is that the proposed extensions would be built when the use of the property has been changed to a single dwellinghouse. However, as already set out above, in section 192 cases, the question is whether the proposed operation would be lawful if 'instituted or begun' on the date of the application.
9. The proposed development is the conversion of two flats into a single dwellinghouse with single storey rear extension and loft conversion with dormer, in other words a single operation.
10. For the proposed single storey rear extension and dormer to be considered permitted development, the property would first have to be in use as a single dwellinghouse. Since at the date of the application, the use was as two flats, the proposed single storey rear extension and dormer could not constitute permitted development.
11. In any event, the rear of the existing property includes an extension/s to the rear. Paragraph A.1.(j)(iii) of Part 1 Class A of the GPDO states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse.
12. It is not clear whether the existing extension/s form part of the original dwellinghouse however, paragraph A.1.(ja) of Part 1 states that development is not permitted if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (j).
13. The Government's Technical Guidance¹ indicates that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front or rear wall. The proposed single storey extension would adjoin the side wall of the existing rear projections.
14. Accordingly, since the proposal would see the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the dwellinghouse and would have a width greater than half the width of the dwellinghouse, it would fail to meet the Class A.1.(j)(iii) requirement. Hence, even if the property was in use as a dwellinghouse, the proposed single storey extension would not be permitted by Class A of Part 1 of Schedule 2 of the GPDO.
15. The Council made no comment about the proposed dormer. However, it seems to me that if the property were in use as a dwellinghouse, the dormer would

¹ Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019

constitute permitted development under Part 1 Classes B and C of the GPDO subject to the standard condition set out in paragraph B.2(a) of Class B that is the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the conversion of two flats back into a single dwellinghouse with single storey rear extension and loft conversion with dormer is 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).

Felicity Thompson

INSPECTOR