



Appeal Decision

Site visit made on 18 November 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2026

Appeal Ref: APP/T5150/X/24/3339108

103 Rucklidge Avenue, Brent, London NW10 4QB

- 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 Yann Abbott against the decision of the Council of the London Borough of Brent.
 - The application ref 23/3922, dated 15 December 2023, was refused by notice dated 8 February 2024.
 - 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 6 metre rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The lawful development certificate application was submitted in the names of Mr and Mrs Abbott, whereas the appeal is submitted in the name of Mr Abbott only. I have therefore used the name provided on the appeal form in the banner heading above.

Main Issue

3. The main issue of the appeal is whether the Council's decision to refuse the certificate of lawfulness is well-founded.

Reasons

4. An application under section 192(1)(b) of the Act seeks to establish whether any operations proposed to be carried out in, on, over or under land, would have been lawful at the time of the application. Section 191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
5. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the development would be lawful.
6. The appeal property comprises a terrace property, which has been extended to the rear by around 6m. The appellant proposes to extend their property at the rear, so

that the rear projection would fill the width of the rear garden, effectively widening the existing extension. The appellant has previously submitted an application for a larger home extension, reference 23/2109, which, they say, the overall design would not deviate from.

7. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO) permits development within the curtilage of a dwellinghouse, subject to certain conditions and limitations. Part 1, Class A of Schedule 2 permits the enlargement, improvement or other alteration of a dwellinghouse.
8. Since the proposed development would extend 6m from the rear of the original dwellinghouse, before beginning the development, the developer must provided certain information set out in A.4(2) to the local planning authority and the local planning authority must notify each adjoining owner or occupier, in accordance with A.4(5). A.4(11) sets out that the development must be carried out (b) where prior approval is not required, or where sub-paragraph (10)(c) applies, in accordance with the information provided under sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.
9. While the Council confirmed that prior approval was not required in respect of details submitted under application 23/2109, the appellant confirms that the design was 'slightly adjusted to allow compliance following a previous Lawful certificate refusal'. As such, by the appellant's own admission, the proposed development would not be carried out in accordance with the information provided under sub-paragraph (2) and there is no evidence to show that the local planning authority has agreed otherwise in writing.
10. Development is not permitted by Class A if (ja) 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 (e) to (j). Although the Council has previously confirmed that prior approval would not be required for details submitted under application 23/2109, the decision letter contained a series of informatives, including confirmation that 'an assessment has not been made as to whether the proposal would constitute permitted development...'.
11. There is an extension at first floor level, which was granted under application reference 14/1738. Permission is not granted by Class A if (ja) 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 (e) to (j). Sub-paragraph (j): the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (i) exceed 4 metres in height.
12. The Permitted development rights for householders: Technical Guidance advises that "Original" means a building as it existing on 1 July 1948 where it was built before that date, and as it was built if built after that date. The proposed extension would be physically joined to the extension at first floor level and would extend beyond a wall forming a side elevation which, it has not been shown is not original.
13. Thus, I find that the proposed development would not be permitted by the GPDO because it has not been shown, on the balance of probabilities, that the proposed development would be carried out in accordance with information previously

provided to the local planning authority in support of application 23/2109, or that it would meet the limitations set out in A.1(ja) of Part 1, Class A. The proposed extension is therefore development for which planning permission is required and so the appeal must fail.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a 6 metre rear extension 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).

M Savage

INSPECTOR