



Appeal Decision

Site visit made on 28 January 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2026

Appeal Ref: APP/N5090/X/24/3347153

25 Park Avenue, Hampstead, Barnet, London NW11 7SL

- 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 Michael Brodtman against the decision of the Council of the London Borough of Barnet.
 - The application ref 24/2004/192, dated 21 May 2024, was refused by notice dated 28 May 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 proposed hip to gable roof extension and roof dormer.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought is a certificate of lawfulness for a proposed development. 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.
3. Prior to the determination of the appeal, I sought the views of the parties as to whether the proposal would fall to be considered against Class B of the GPDO¹, "The enlargement of a dwelling house consisting of an addition or alteration to its roof", when it appears that a substantial part of the original roof structure would not remain after the development was completed. The responses from the parties have been considered in reaching my decision.

Main Issue

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

Reasons

5. Schedule 2 Part 1 Class B of the GPDO grants planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof,

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

- and Class C other alterations to the roof of a dwellinghouse, subject to certain conditions and limitations.
6. However, the GPDO does not define *addition* and *alteration*, and it therefore follows whether the proposal amounts to an addition or alteration is a matter of fact and degree.
 7. In this case, the proposed development would involve the demolition of several chimneys and the removal of a significant majority of the existing hip to gable roof structure and its replacement with a crown type (flat) roof extension, including a dormer window. The development would occupy the majority of the existing roof area with only a modest amount of the original roof remaining.
 8. The appellant provided details from a structural engineer including drawings to illustrate what would be retained of the original roof. The appellant confirmed that a large part of the original roof would be removed but stated that at least 775mm of roof slope (from eaves to the roof addition) on all four elevations would be retained, with the engineer confirming that the roof adjacent to the perimeter eaves would be retained during construction.
 9. I acknowledge that a hip to gable enlargement and dormer roof extension would almost always result in the removal of relatively large parts of an existing roof. However, given the extent of the proposed works in this case, there would be a significant amount of demolition and reconstruction in respect of the majority of the roof area.
 10. As a matter of fact, and degree, I find the proposed development would not therefore amount to either an “addition” or “alteration” to the roof as a substantial part of the original roof structure would not remain. As such, the development would not constitute permitted development by virtue of Classes B and C of the GPDO.
 11. Notwithstanding my conclusion on this matter, I shall address the Council’s reasons for refusing the application in the interests of certainty. Those reasons are that the proposed development would fail to meet the limitation at Class B B.1(c) since the Council considered the proposed development would extend beyond the plane of an existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. And the proposed dormer would fail to meet the condition at B.2(c) since it would be less than 1.7 metres above the floor of the room and would not be obscure-glazed and non-opening.
 12. The Government’s Technical Guidance² sets out that in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house. It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house.
 13. In this case the front elevation of the house, is that long elevation which overlooks the main garden area, the west elevation. That elevation contains the main architectural features including two large symmetrical bay windows on either side of

² Permitted development rights for householders Technical Guidance September 2019

a front door, which has a canopy over, and clearly constitutes the principal elevation. As a matter of fact and degree, the west elevation is the principal elevation and the limitation at Class B B.1(c) would be met.

14. Since the west elevation forms the principal elevation, it follows that the east elevation forms the rear elevation, there would therefore be no conflict with the condition at B.2(c) of Class B.
15. However, for the reasons given, the proposed development would not be an addition, alteration, or other alteration to the roof of the dwellinghouse for the purposes of Classes B and C of the GPDO.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a proposed hip to gable roof extension and roof 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