



Appeal Decision

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2026

Appeal Ref: APP/P1805/X/25/3361801

Billesley House, Billesley Lane, Portway, Worcestershire B48 7HF

- 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 & Mrs L & J Prinsep against the decision of Bromsgrove District Council.
 - The application ref 24/01229/CPL, dated 29 November 2024, was refused by notice dated 15 January 2025.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended) ("the Act").
 - The development for which a certificate of lawful use or development is sought is a two storey rear extension and a single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section 192(2) of the Act states that if the Council is provided with information satisfying it that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application.
3. For the avoidance of doubt, a certificate is not a planning permission, just confirmation that the matters proposed would have been lawful at the date of application. Thus, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on the evidential facts and on relevant law and judicial authority. The test of the evidence is made on the balance of probability and the burden of proof rests with the appellant.
4. Accordingly, it has not been necessary to carry out a site visit. Both parties were informed of my decision not to visit, and I consider that neither appeal party has been prejudiced by me proceeding in this manner.

Main Issue

5. Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") provides that planning permission is granted for the classes of development described in Schedule 2.
6. The main issue with this appeal is whether the Council's decision to refuse to grant an LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Article 3(1) and, in this case, Class A of Part 1 of the GPDO. This allows for the enlargement, improvement or other alteration of a dwellinghouse.

Reasons

7. The proposal is for rear extensions comprised of a two storey and a single storey element to a detached dwellinghouse in the Green Belt. Planning permission, reference 23/01127/FUL, was granted on 14 November 2024 for extensions to the dwelling. A planning condition attached to that consent removes permitted development rights under Classes A to D of the GPDO. The Council reports that these extensions have not been implemented and, as such, it is satisfied that permitted development rights remain. I have no reason to disagree with this view.
8. The sole point in contention is whether the proposed development would comply with the limitation in Class A.1(d) of Part 1 of the GPDO, namely whether the height of the eaves of the proposed development would exceed the height of the eaves of the existing dwellinghouse.
9. The appeal property is a two-storey dwelling with a dual pitched gable ended roof. The rear roof slope contains three mono pitched dormer windows. The principal elevation incorporates a central front facing gable that breaks through the main roof slope and is flanked either side by a dormer window. The proposal comprises a single addition to the rear of the property consisting of a two-storey extension incorporating a gabled roof form and an adjoining single-storey flat-roof extension to the side. The appellant considers that the eaves of the existing dormers represent the highest eaves of the dwellinghouse and should therefore be used as the reference point for assessing the proposed extension. I do not agree.
10. The ordinary meaning of the term "eaves" is the lowest part of a roof where it meets, or projects beyond, the wall below. This is reflected in The Government's Permitted Development Rights for Householders Technical Guidance (September 2019). The height is measured from the natural ground level at the base of the outside wall to the point where the wall would intersect with the upper surface of the roof slope. The guidance therefore identifies the eaves by reference to the junction between the roof of the dwellinghouse and its external wall.
11. While the Technical Guidance states that where a dwellinghouse has eaves at different heights the highest eaves should be used as the reference point, that principle applies to alternative eaves lines forming part of the dwellinghouse itself. Dormers are subordinate structures projecting from the main roof with their own small roof forms rather than features which redefine the eaves of the dwellinghouse. Consequently, although a dormer may possess its own roof and eaves, those elements do not establish the eaves line of the dwellinghouse itself. The relevant eaves remain those formed by the principal roof where it meets the external wall of the dwellinghouse.
12. This interpretation is consistent with the Technical Guidance as a whole, which draws a clear distinction between the eaves of the original roof and dormer development within the roof slope. Therefore, and having regard to the submitted drawings, the eaves of the development as proposed would extend beyond the eaves of the dwellinghouse. As such, the development falls outside Class A.1(d), Part 1 of Schedule 2 of the GPDO and express planning permission would be required.

Conclusion

13. For the reasons given, I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development for a two storey rear extension and a single storey rear extension of the property was well-founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the Act (as amended).

S A Hanson

INSPECTOR