



Appeal Decision

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2026

Appeal Ref: APP/Z5060/X/25/3360677

214 Westrow Drive, Barking, IG11 9BT

- 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 Kareem against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application ref 24/01344/CLUP, dated 23 September 2024, was refused by notice dated 7 November 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 construction of a hip-to-gable roof extension to accommodate a rear dormer extension including three roof lights to the front to facilitate the conversion of roof space into habitable accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the purposes of obtaining a certificate of lawful use or development (LDC) the onus is on the appellant to make out their case to the standard of the balance of probabilities. The relevant date for ascertaining whether the proposal would be lawful is the date of the application. The planning merits of the proposal are not relevant in this appeal.
3. The proposal is described on the application form as “loft extension”. This description does not refer to the proposed hip-to-gable enlargement, dormer extension or roof lights. The description on the decision notice, as set out in the banner heading above, accurately reflects the extent of the proposal. I have determined the appeal on that basis.
4. No site visit was necessary in this case as the appeal can be determined based on the submitted evidence. Neither party has been prejudiced by this approach.

Main Issue

5. The main issue is whether the Council’s decision to refuse to grant an LDC was well-founded, having particular regard to whether the proposal would be granted planning permission by Article 3(1), Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

6. The appeal site is a two storey, end terrace house situated in a row of similar properties on Westrow Drive. The property has a hipped roof and has previously

been extended with a single storey rear extension and a first floor rear extension. I understand that the first floor extension was approved by application 16/00518/FUL.

7. Article 3(1), Schedule 2, Part 1 of the GPDO grants planning permission for certain classes of development within the curtilage of a dwelling. This includes Class B which permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, provided certain limitations and conditions are met.
8. The dispute is over whether the proposal meets the limitation at paragraph B.1(d) which states that development is not permitted by Class B if the cubic content of the resulting roof space exceeds the cubic content of the original roof space by more than (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case. Paragraph B.3 states that 'resulting roof space' means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not. The Technical Guidance: Permitted development rights for householders (2019) (the Guidance) explains the rules on householder permitted development and how they should be applied in particular circumstances. It advises that the 'original roof space' is the roof space in the 'original building'. The 'original building' means a building as it existed on 1 July 1948 where it was built before that date, and as it was built if built after that date.
9. In this case, as the property is a terrace house the 40 cubic metre allowance applies. The Council refused the application on the basis that the proposed hip-to-gable enlargement and dormer, together with the roof space of the existing first floor extension, would result in the total enlarged roof volume exceeding 40 cubic metres. As such, it would not accord with the limitation at B.1(d)(i).
10. The appellant says that the Council has failed to provide detailed volume calculations for the proposal. However, the Council has based its assessment on the appellant's calculations as shown on the submitted plans, which are the only calculations before me. There is no dispute that those calculations are correct. They indicate that the roof volume of the first floor extension, together with the hip-to-gable enlargement and rear dormer, would result in an increase of 48.2 cubic metres over the cubic content of the original roof space.
11. Whilst the appellant contends that the calculation should be based only on the original roof space, the extent of the original roof space does not appear to be disputed. The original building constitutes the main two storey part of the dwelling. The first floor extension cannot be said to form part of the original roof space. The appellant argues that, as the first floor extension was not part of the original roof space and Class B does not prohibit roof enlargements over previously extended parts of a dwellinghouse, the roof volume associated with that extension should be excluded from the calculation. The appellant contends that, if the volume of the first floor extension roof space is excluded, the hip-to-gable and rear dormer extension would fall within the 40 cubic metre allowance.
12. However, for the purposes of Class B, the Guidance states that any previous enlargement to the original roof space in any part of the dwellinghouse must be included in the volume allowance. Consequently, the fact that the first floor extension was previously granted planning permission does not mean that the roof volume associated with it can be disregarded for the purposes of the calculation. Having regard to the Guidance, I consider that the first floor extension constitutes a previous enlargement to the original roof space of the house, and so the roof

volume associated with it should be included in the calculation. The evidence indicates that the resulting roof space of the existing first floor extension and the proposal would exceed the cubic content of the original roof space by more than 40 cubic metres.

13. The appellant has referred to other decisions which are said to support their interpretation of Class B. However, no substantive details of those cases have been provided, and it has not been shown that their circumstances are comparable to those of the appeal proposal. Consequently, they do not lead me to alter my findings in this case.
14. On the basis of the evidence before me, and on the balance of probabilities, I find that the total increase in roof volume resulting from the existing first floor extension and the proposed hip-to-gable enlargement and dormer extension, would exceed the 40 cubic metre allowance under paragraph B.1(d)(i). Therefore, the proposed hip-to-gable enlargement and rear dormer would not be granted planning permission by Article 3(1), Schedule 2, Part 1, Class B of the GPDO. Consequently, at the date of the application, the proposal would not have been lawful.

Conclusion

15. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a hip-to-gable roof extension to accommodate a rear dormer extension including three roof lights to the front to facilitate the conversion of roof space into habitable accommodation was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

M Ollerenshaw

INSPECTOR