



Appeal Decision

Site visit made on 1 October 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2026

Appeal Ref: APP/P1560/X/25/3364647

9 Talbot Street, Harwich, Essex, CO12 3JQ

- 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 Karalius against the decision of Tendring District Council.
 - The application ref 24/01555/LUPROP, dated 17 October 2024, was refused by notice dated 28 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 a proposed loft conversion with L shaped dormer to the rear elevation.
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Decision

1. The appeal is dismissed.

Reasons

2. Section 192(2) of the Town and Country Planning Act 1990 indicates that if, on an application under that section, the local planning authority are provided with information satisfying them 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; and in any other case they shall refuse the application.
3. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Development was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made.
4. Class A, Part 1, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) relates to the enlargement, improvement or other alteration of a dwellinghouse, and Class B of the same, relates to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
5. The appeal property is a three-storey end of terrace dwellinghouse with an original two-storey outrigger to the rear, which is significantly lower in height than the main house. The outrigger shares a pitched roof with that of the adjoining property.
6. The proposed development is described as a loft conversion with L-shaped dormer to the rear elevation. However, this is not reflected by the proposed plans. Although the elevation drawings show the addition of a rear dormer to the main roof of the house, this would not create any new converted habitable space above

the main part of the dwelling. The shallow roof space above the main part of the house, which already incorporates the upper part of the second-floor rooms, would continue to be accessed only via a loft hatch, and the sectional drawing shows the original roof trusses retained and insufficient height to stand.

7. The rear dormer would not adjoin an existing roof, of either the original dwellinghouse or a subsequent extension, that is because in this case, the roof of the outrigger is substantially lower than that of the main house. Whilst it would adjoin the proposed extension above the outrigger, I do not consider this to be a roof extension falling within Class B for the reasons given below. It appears therefore that the sole purpose of the dormer on the rear of the main part of the dwelling is to create an L-shaped roof alteration, in an attempt to address the refusal of a previous application that sought only to extend the outrigger, taking into account the conditions of Class B of the GPDO and the technical guidance¹.
8. The rear outrigger has a low shallow pitched roof providing very little space. The extension proposed above this would project from the rear wall of the house, which it would be accessed through, and would add another storey to the outrigger utilising very little existing roof space. Its floor would be level with the existing second floor of the main dwelling, and a new door opening would be created in the existing rear elevation of the main house, as opposed to via the roof space. The flat roof of the proposed extension would be significantly higher than the eaves and ridge height of the original and adjoining half of the outrigger and its chimney stack. It would also be notably higher than the eaves of the main dwelling. This goes well beyond an enlargement consisting solely of an addition or alteration to a roof, and the works required to the rear elevation wall, to facilitate access to the extension, would be an alteration and enlargement of the house, falling within Class A.
9. Although parts of the two extensions would be physically adjoining each other, there would be no internal connection between them, and being on separate floors, they would be notably different in terms of their height. The development could not therefore reasonably be described as a loft conversion or a single L-shaped dormer as it would not comprise a single structure joining two roof spaces.
10. Consequently, I agree with the approach taken by the Council, and consider that the enlargement and upward extension of the outrigger would be more appropriately assessed against the requirements of Class A. The dormer above the main roof should be assessed against the requirements of Class B.
11. The second-floor extension above the outrigger would fail to meet requirements (d), (i) and (k)(i) of Class A.1, which are that the eaves of the part of the dwellinghouse enlarged must not exceed the eaves height of the existing dwellinghouse, that where the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse the height of the eaves of the enlarged part must not exceed 3 metres, and the proposal must not consist of or include an alteration to any part of the roof of the dwellinghouse.
12. The dormer proposed in the rear roof slope of the main part of the dwelling, with the link through the eaves and beyond the rear wall of the main house to join the extension proposed above the outrigger, would also fail to comply with Class B.

¹ Permitted development rights for householders: Technical Guidance: MHCLG 2019

Other Matters

13. I have had regard to the three appeal decisions² and associated plans submitted by the appellant, but these each appear to relate to different forms of development to the scheme before me, whereby the L-shaped dormer is a single extension or an extension of an existing dormer, with the same or very similar floor and roof heights. Whilst I accept that there will be circumstances where an L-shaped dormer could be permitted development, including in cases where the two arms of the L-shape are slightly different in roof height, I do not consider that to be the case in this instance. I note from paragraph 12 of appeal decision ref. APP/K3605/X/23/3316515, that another Inspector has taken the same approach as myself where works amount to an additional storey of accommodation above an outrigger.

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 loft conversion with L-shaped dormer to the rear 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).

R Bartlett

INSPECTOR

² APP/N0410/X/21/3285524, APP/Q1445/X/23/3327291, APP/K3605/X/23/3316515