



Appeal Decision

Site Inspection on 21 May 2014

by **Graham Self MA MSc FRTPI**

Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 May 2014

Appeal A: Reference: APP/R5510/X/13/2207335

Site at: 14 Moorfield Road, Uxbridge, Middlesex UB8 3SL

- The appeal is made by Mr Amrik Singh under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, against the refusal by the London Borough of Hillingdon Council to grant a certificate of lawfulness.
- The application (Reference No. 69313/APP/2013/1907) dated 8 July 2013 was refused on 27 August 2013.
- The application was made under Section 192 of the Town and Country Planning Act 1990 as amended.
- The application sought a Certificate of Lawfulness for: "Single storey side extensions".

Summary of Decision: The appeal is allowed and a certificate of lawfulness is issued in the terms set out below.

Reasons

1. The proposal would involve constructing two separate extensions, one on each side of the existing dwelling. Both extensions would be single storey structures. They would each have a ridged roof, no more than 4 metres high measured from adjacent ground level. The application drawings show that one extension would be 5.15 metres wide; the other would be 2.5 metres wide. The existing dwelling (which is evidently the "original dwellinghouse" for the purposes of planning law) has a width of about 10.3 metres.
2. The dispute in this case is centred on the provisions of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the "GPDO"). This part of the GPDO grants permission, subject to various provisos and conditions, for the enlargement of a dwellinghouse. There is general agreement that almost all of the provisos and conditions would be met, but the council contend that the criterion in sub-paragraph A.1(h)(iii) prevents the proposal being permitted development. This sub-paragraph provides that development is not permitted under Class A where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse.
3. In essence, the council maintain that the width of both extensions should be added together, giving a width greater than half the width of the original dwelling. The appellant contends that each extension should be considered

individually, and neither on its own would have a width greater than half the width of the original dwelling.

4. The appellant's interpretation of the GPDO is correct. As was stated in an appeal decision on a similar proposal in Essex in 2010,¹ the phrase "the enlarged part" refers back to the opening words in Class A ("the enlargement...of a dwellinghouse"), and sub-paragraph A.1(h) is written in the singular. In their stated reason for refusal, the council have altered words in the GPDO to make them plural ("enlarged parts" and "side elevations"), but the singular wording of sub-paragraph A.1 indicates that each enlarged part is to be considered individually. The extensions would not be physically attached to each other.
5. From the planning officer's report, it seems the council accept that each of the additions "is capable of being considered lawful in itself". In other words, if separate certificates were sought for each extension they would be granted. Although it is well known that the GPDO can cause quirks of development control, it would be very strange if two separate applications for certificates, possibly submitted at the same time, could produce an outcome different from the result of one application covering the same two proposals.
6. Whether the extensions would have an undesirable cumulative effect visually or would harm the amenities of neighbouring dwellings is not a matter within the scope of this appeal. I note that a neighbour has concerns about the closeness of the development to her house and about building over a manhole cover; but again these points do not have any bearing on my decision, which has to be based solely on interpreting the GPDO as it applies to the facts of what is proposed. Some local residents may understandably believe that the appeal concerns an application for planning permission. That is not so, and I hope that if necessary the council can make this clear to residents.

Formal Decision

7. For the reasons given above I conclude that the council's refusal to grant a certificate of lawfulness was not well-founded. Therefore the appeal succeeds. I am exercising accordingly the powers transferred to me under section 195(2) of the 1990 Act as amended. A certificate of lawfulness is attached.

G F Self

Inspector

¹ Appeal reference APP/V1505/X/09/2112569

Certificate of Lawfulness

APPEAL REFERENCE APP/R5510/X/13/2207335
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 8 July 2013 the operations described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 as amended, for the following reason:

The proposed single storey side extensions would have been permitted by virtue of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended.

G F Self

INSPECTOR

Date: 23 May 2014

Reference Number: APP/R5510/X/13/2207335

First Schedule

The construction of single storey side extensions as depicted on Drawing Number PD/ASB/1 dated July 2013. The extensions would be attached to each side of the existing dwelling, with their front and rear walls in line with the main dwelling, and would each have a ridged roof with the ridge parallel to the ridges on the roof of the existing dwelling. The extension to the south-south-west of the house would have a width of 2.5 metres, a front-to-back depth of 6.74 metres, and a ridge height of 3.515 metres; the extension to the north-north-east would have a width of 5.15 metres, a front-to-back depth of 6.74 metres and a ridge height of 4.0 metres; all measurements being from adjacent ground level. Neither of the proposed extensions would have any windows or other openings in the side elevations.

Second Schedule

Land at 14 Moorfield Road, Uxbridge, Middlesex UB8 3SL.

NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended.
2. It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule. Any use or operation or matter which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.