

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

WRITTEN REPRESENTATIONS APPEAL

**LOCAL PLANNING AUTHORITY REF:
27768/APP/2018/3799 & 42900/APP/2018/3800**

**APPEAL BY MR & MRS SIAN AGAINST THE DECISION OF THE LONDON
BOROUGH OF HILLINGDON FOR THE REFUSAL OF TWO CERTIFICATES OF
LAWFULNESS FOR THE CONVERSION OF THE ROOFSpace TO HABITABLE
USE TO INCLUDE A REAR DORMER, TWO FRONT ROOFLIGHTS AND THE
CONVERSION OF THE ROOF FROM HIP TO GABLE END AT BOTH PROPERTIES**

AT

**7 AND 9 DOGHURST AVENUE
HARLINGTON
MIDDLESEX
UB3 5BJ**

WRITTEN STATEMENT OF THE APPELLANT

DATE: 19 FEBRUARY 2019

Prepared by:

OPS Chartered Surveyors
17 Garvin Avenue, Beaconsfield, Buckinghamshire, HP9 1RD
M: 07881 457903 | E: info@ops-surveyors.co.uk



1. INTRODUCTION

- 1.1 This appeal seeks the grant of two certificates of lawfulness for existing development for the conversion of the roofspace to habitable use to include a rear dormer, two front rooflights and the conversion of the roof from hip to gable end at 7 and 9 Doghurst Avenue, Harlington, Middlesex, UB3 5BJ. The applications were refused for the following reasons:-
1. *"The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probability, the development has existed for at least a period of four years, prior to the date of this application".*
 2. *"The existing development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 as the development is not within the curtilage of a dwellinghouse but is within the curtilage of more than one dwellinghouse".*
- 1.2 The same reasons for refusal were used in both applications. The first reason is not being considered in this appeal as it is not contested that the dormer window has been in existence for a period of at least four years. It is the second reason for refusal that is being challenged as the dormer window does fall within the permitted development rights of both of the dwellings at 7 and 9 Doghurst Avenue.
- 1.3 The appellant is proposing to use this statement to cover both appeals against the refusal of the two certificates of lawfulness because the subject of these appeals is identical in each case except for the arrangement being handed to match each adjacent property where the issues raised by the appeals are closely related to each other.

2. DESCRIPTION OF THE APPEAL SITE AND THE SURROUNDINGS

- 2.1 The appeal site comprises a pair of semi-detached dwellings on the southern side of Doghurst Avenue in a row of detached and semi-detached dwellings of typical appearance in this part of London. The site is not in a Conservation Area and is not subject to any other planning restrictions. The permitted development rights of the properties have not been removed.

3. APPELLANT'S STATEMENT

3.1 The Council's reason for refusal of the application is flawed and is based on a misunderstanding of Class B of Schedule 2, Part 1 of the Town and Country (General Permitted Development) (England) Order 2015, as will be discussed in this statement.

3.2 Class B of the Order states;

"Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development is not permitted by Class B if;

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

(d) the cubic content of the resulting roof space would exceed 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;

(e) it would consist of or include— (i) the construction or provision of a verandah, balcony or raised platform, or (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

(f) the dwellinghouse is on article 2(3) land.

Conditions

Development is permitted by Class B subject to the following conditions;

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) the enlargement must be constructed so that— (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be— (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed”.

- 3.3 The Case Officer reports for both applications for the certificates of lawfulness state the dormer windows together with the hip to gable conversions are within the 50 cubic metre allowance for a semi-detached dwelling and that they comply with the criteria for Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and that the rooflights comply with the criteria of Class C of the Order). The appellant does not disagree with this analysis.
- 3.4 The area of disagreement is over the interpretation of the how the development, constructed at the same time, should be viewed in terms of the criteria of Class B of the 2015 Order.
- 3.5 The 2015 Order does not state anywhere that works to adjoining properties that straddle the boundary between those properties may not be undertaken at the same time, in order to qualify as permitted development, just that they must comply with the relevant class of the Order and must be within the curtilage of the dwelling. There are a number of terms described and explained in Section 2 of the document – Interpretation (page 2) – but this section does not explain that concurrent works to properties across a boundary between those properties may not be classed as permitted development. Therefore, the Council is wrong in its interpretation of the Order as to allowing works to neighbouring properties that straddle the boundary between those properties being permissible under a certificate of lawfulness.
- 3.6 The works to both 7 and 9 Doghurst Avenue have been erected within the curtilage of the respective dwellings as that part of the dormer at 7 does not cross the boundary into the curtilage of 9 but is in effect built up to the party wall between the two properties and vice versa.
- 3.7 This argument is supported by case law regarding certificates of lawfulness for buildings works which cross the boundary between two adjoining properties. An

appeal at 42 and 44 The Highlands, Edgware HA8 5HL for the erection of a single storey side extension to each dwelling which would be joined at the party wall (planning application refs. P/2935/10 and P/2396/10; PINS refs. APP/M5450/X/11/2153820 and 2153389) was allowed as the Inspector considered that *'if built separately, neither side extension would not be excluded from permitted development by the terms of A.1 (h)(iii)'*. The Inspector went on to consider that as each dwelling has its own permitted development rights, *'it would be illogical to consider two side extensions, which would otherwise comply in all respects with the terms of Class A of the GPDO to not be permitted development simply because they happen to become semi-detached by being built simultaneously to the common boundary and sharing a party wall... I find that the side extensions would constitute permitted development'*.

- 3.8 Another case is that at 17 and 19 Elmsleigh Avenue, Harrow HA3 8HX (Council refs. ENF/0290/11 and ENF/0362/11; PINS refs. APP/M5450/C/11/2149461 and 2159462) where, amongst other development, an outbuilding which complied with the criteria of Class E of the 2015 Order was constructed across the boundary of the two properties. An enforcement notice was served requiring the demolition and removal of the unauthorised works. At appeal, the Inspector considered *'The single storey outbuildings have been built in semi-detached form, straddling the common boundary between nos. 17 and 19 with an internal dividing wall. Even though they were clearly built as part of a single building operation, I see no reason why they should not be regarded as separate buildings, each within the curtilage of its host dwelling, just as semi-detached houses are each regarded as being within their own curtilage'*. It is therefore possible and lawful in planning terms for two neighbouring properties to each concurrently erect a structure that adjoins the other structure across the boundary.
- 3.9 Applying the same considerations to the cases at 7 and 9 Doghurst Avenue, it is evident that the dormer window may be classed as permitted development too as each half of the structure may be viewed as being within the curtilage of the dwelling to which it relates.

4. CONCLUSION

- 4.1 As has been discussed and explained in this appeal statement, and supported by case law, the dormer window at 7 and 9 Doghurst Avenue may be viewed as being permitted development as the development has taken place in the curtilages of two properties. The dormer window therefore complies with the criteria of Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as each half of the structure does not cross the boundary onto the neighbouring property. The dormer window may therefore be viewed as being permitted development.
- 4.2 The Inspector is therefore respectfully requested to uphold the appeal and grant the certificates of lawfulness for the existing development for the conversion of the roofspace to habitable use to include a rear dormer, two front rooflights and the conversion of the roof from hip to gable end at 7 and 9 Doghurst Avenue, Harlington, Middlesex, UB39 5BJ.

5. APPENDICES

Appendix 1

Application form - 7 Doghurst Avenue, UB3 5BJ (Ref: 27768/APP/2018/3799)

Appendix 2

Decision notice for 7 Doghurst Avenue, UB3 5BJ (Ref: 27768/APP/2018/3799)

Appendix 3

Officer report for 7 Doghurst Avenue, UB3 5BJ (Ref: 27768/APP/2018/3799)

Appendix 4

Application drawings for 7 Doghurst Avenue, UB3 5BJ (Ref: 27768/APP/2018/3799)

Appendix 5

Application form - 9 Doghurst Avenue, UB3 5BJ (Ref: 42900/APP/2018/3800)

Appendix 6

Decision notice for 9 Doghurst Avenue, UB3 5BJ (Ref: 42900/APP/2018/3800)

Appendix 7

Officer report for 9 Doghurst Avenue, UB3 5BJ (Ref: 42900/APP/2018/3800)

Appendix 8

Application drawings for 9 Doghurst Avenue, UB3 5BJ (Ref: 42900/APP/2018/3800)

Appendix 9

Photos for 7 & 9 Doghurst Avenue, UB3 5BJ (Ref: 27768/APP/2018/3799 & 42900/APP/2018/3800)

Appendix 10

Reference appeal case 1 (42 and 44 The Highlands, Edgware HA8 5HL) (APP/M5450/X/11/2153820 and 2153389)

Appendix 11

Reference appeal case 2 (17 and 19 Elmsleigh Avenue, Harrow HA3 8HX) (APP/M5450/C/11/2149461 and 2159462)