
Appeal Decision

Site visit made on 7 November 2016

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

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

Decision date: 11 November 2016

Appeal Ref: APP/G3110/X/16/3149369

24 Mill Street, Oxford, OX2 0AJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Salvador Exposito against the decision of Oxford City Council.
- The application Ref 16/00526/CPU, dated 23 February 2016, was refused by notice dated 29 March 2016.
- 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 habitable rooms in loft space with rear dormer, front roof windows, loft conversion.

Summary of Decision: The appeal is dismissed.

Reasons

1. Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) says that, subject to various limitations, certain alterations and extensions to dwellinghouses have deemed consent. This deemed consent is often described as 'permitted development'. Class B of Part 1 sets out the limitations and conditions that apply in respect of the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Class A similarly says that the enlargement, improvement or other alteration of a dwellinghouse is permitted development subject to specified limitations.
 2. The application has been made under S192 of the Town and Country Planning Act 1990 as amended (the Act) and seeks to establish whether or not the proposed habitable rooms in loft space with rear dormer, front roof windows, loft conversion, are development permitted by the GPDO and thus do not require an express grant of planning permission.
 3. I find the description of the development on the application form imprecise and prefer the description used on the appeal form. This describes the development as an 'L-shaped dormer' and I shall use this in my decision. However the plans show that the proposed L-shaped dormer is in two parts, firstly, the box dormer on the rear of the main roof, and secondly, the building up of the rear outrigger to provide accommodation enclosed by walls and a new pitched roof. This latter extension is linked, though at a different level, to the rear roof enlargement, and thus as a whole would create the L-shape referred to on the appeal form. The issue between the parties is whether the outrigger enlargement falls within Class B or Class A of the GPDO.
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4. It is common ground between the parties that if the proposed L-shaped dormer is considered in the light of Class B only it does not exceed the limitations of that Class. However the Council say that the outrigger element of the extension is not an addition or alteration to its roof and thus must be considered under Class A; the appellant disagrees.
5. The plans show that the proposal would result in the removal of the roof of the out-rigger element so that the original roof of that part of the dwelling would effectively cease to exist. External walls would be constructed on top of the first floor accommodation on three sides, together with a fourth internal wall, and this structure, would in turn be roofed with an entirely new dual pitched roof. As a matter of fact and degree the development is principally and most obviously an upward extension to the first floor of the house.
6. Notwithstanding this, the publication *Permitted development for householders: Technical Guidance* as amended April 2016 (PDTG)¹, provides guidance on the interpretation of the GPDO and anticipates, in the context of Class B, that there may be circumstances where "the enlarged part of the roof may join the original roof of a rear or side extension generally referred to as an L-shaped dormer". But in the circumstances of this appeal the extent of the anticipated works go far beyond what could, in the normal meaning of the term, be described as an extension or alteration to the roof.
7. Hence, I conclude, as a matter of fact and degree, that the proposed works would not be an addition or alteration to its roof because this original outrigger roof would be subsumed and replaced by the extension comprising a room enclosed by 4 new walls and a new roof. Consequently the outrigger element of the L-shaped dormer is subject to the limitations of Class A of the GPDO. In coming to this conclusion I have taken account of the argument that such dormers at other dwellings have been previously classed as GPDO Class B development by the Council. But I do not know the full circumstances of the examples relied upon by the appellant and this appeal must turn on its own facts.
8. Class A permitted development is limited as set out in the GPDO. These limitations include:
 - A.1(d) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse; and
 - A.1 (i) the enlarged part of the dwelling house would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres.
9. In both cases, the works to the outrigger would exceed these limitations and thus cannot benefit from the deemed consent conferred by the GPDO.
10. Although the first element of the proposed L-shaped dormer, namely the box dormer on the main rear roof of the dwelling would, if constructed separately fall within Class B, the plans do not indicate that the proposed development would be readily severable. In these circumstances it is not appropriate to issue a split decision.

¹ *Permitted development for householders: Technical Guidance* Department for Communities and Local Government: Updated April 2016:

Decision

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed L-shaped dormer was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me by section 195(3) of the 1990 Act as amended and uphold that decision.
12. Consequently the appeal is dismissed.

Sukie Tamplin

INSPECTOR