



Appeal Decision

Site visit made on 14 November 2016

by K R Saward Solicitor

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

Decision date: 17 November 2016

Appeal Ref: APP/G5750/X/16/3157621

29 South Esk Road, Forest Gate, London E7 8EZ

- 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 T Ali against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/01893/CLP, dated 20 June 2016, was refused by notice dated 26 August 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 a 40 cubic roof extension (loft conversion).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal was brought in the name of Mr A Ali whereas the application was made by Mr T Ali. It has been confirmed that there was a typographical error in the Appeal Form and the appeal proceeds in the name of Mr T Ali.

Main Issue

3. The main issue is whether at the time of the LDC application the proposed development would have constituted permitted development by virtue of the provisions of Article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

4. In any application for a LDC, the onus is on the appellant to demonstrate, on the balance of probabilities, that the proposed development would have been lawful at the time of the application. The Planning Practice Guidance on LDCs advises that *"the applicant is responsible for providing sufficient information to support an application"*. Further, *"in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved."*
 5. Article 3(1) and Class B of Part 1 of Schedule 2 of the GPDO grant planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. This is subject to certain limitations in paragraph B.1. and conditions in paragraph B.2.
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6. The proposal is for a loft conversion with a rear dormer and 2 roof lights to the front roof slope. The proposed roof dormer would be the full width of the main roof and extend above an existing 2 storey outrigger projection in an 'L' shape.
7. The Council refused the application on the basis that the proposed plans are contradictory containing inaccuracies in terms of the elevations and extent of the size and shape of the existing building and the proposed extensions. Additionally, further information is said to be required in order to ensure compliance with all criteria applicable under Class B.
8. The appellant has not elaborated upon his evidence contending that the plans show all relevant information required to approve the LDC. It is also maintained that the Council has approved plans of lesser quality and on less information. My assessment can only be based on the information before me for this proposal rather than what might have happened in other cases.
9. The eaves of the outrigger are shown in both the existing and proposed elevation drawings as being at the same height as the eaves of the main roof. In fact, the eaves of the outrigger are much lower. This discrepancy has affected significantly how the proposal is portrayed. It is not a minor issue, but one which causes uncertainty over what precisely is proposed particularly in terms of the relationship between the sections where the main roof dormer would join the extension above the outrigger.
10. Both side sections of the building are annotated in the plans as the 'east' elevation which clearly cannot be correct. Despite this typographical error, it is still possible to distinguish between the two elevations. The error does not affect the substance of the application.
11. However, one proposed side elevation drawing adds to the confusion over what would be built because of how the main chimney stack is shown and the lack of detail in what would be the west facing projection. On site, the appellant's agent suggested that there is simply one line missing to depict a parapet wall behind the chimney stack which is at the end of the outrigger. The appellant may know what was intended, but the application and appeal can only be assessed on what is shown.
12. The plans lack sufficient clarity and accuracy for the decision maker to understand exactly what is involved and to properly determine the lawfulness of the proposal. As things stand, it cannot be established with the necessary level of certainty that the proposal would satisfy the limitations and conditions of Class B for the proposal to have constituted permitted development by virtue of the provisions of Article 3 and Schedule 2, Part 1, Class B of the GPDO. Without precise information the Council was justified in refusing a certificate.

Conclusion

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a 40 cubic roof extension (loft conversion) was 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.

KR Seward
INSPECTOR