
Appeal Decision

Site visit made on 1 November 2016

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 22 November 2016

Appeal Ref: APP/R5510/X/16/3153677

10 Kings College Road, Ruislip, Middlesex HA4 8BH

- 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 and Mrs N Heanen against the decision of the Council of the London Borough of Hillingdon.
 - The application, Ref 39712/APP/2016/929, dated 9 February 2016, was refused by notice dated 11 May 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 described as the 'Conversion of roof space to habitable use to include a rear dormer, 4 front roof lights and conversion of roof from hip to gable end to both sides'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) 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. In any other case they shall refuse the application. Applying the terms of Section 192(2) of the 1990 Act to the appeal proposal, the Council has determined the application against the provisions set out in Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). Although the Council's decision notice refers to Class A of the GPDO, it is clear from the officer's report that the application was determined against the provisions in Classes B and C of the GPDO. For the avoidance of doubt I would also point out that an LDC under section 192 is not the equivalent, in law, of a planning permission and therefore the issue of planning merits is not relevant to this appeal.

Reasons

3. The appeal relates to a detached, two storey house which has been extended in the past with a single storey addition to the side and rear. The appellants now propose to enlarge the roof area to provide an additional bedroom and bathroom. This would involve changing the sides of the roof from a hip shape to a gable shape as well as the addition of a rear dormer and front roof lights.
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The Council advise that the site does not lie within a conservation area and there are no Article 4 Directions removing permitted development (PD) rights.

4. The principle point at issue is the Council's determination that as a result of the works part of the house would extend beyond the plane of an existing roof slope which forms one of the principle elevations of the house and which fronts the highway. The Council accepts that, in all other respects, the proposed development would accord with the limitations set out in Classes B and C of the GPDO and I see no reason to take a different view.
5. The appellants are of the view that their proposed development would not extend beyond the principal elevation of the existing house or the roof shape associated with the principal elevations. They illustrate their point by including a drawing which shows green shading on a part of the side elevation. They also mark what they consider to be the principal elevation with a blue dotted line.
6. However, I consider this drawing demonstrates that the appellants have failed to recognise that where a house has a staggered frontage overlooking a highway, the principal elevation includes more than one roof slope facing in the same direction. In the appellants' case the principal elevation not only includes the wall of the dining room/master bedroom and the hallway/bathroom wall but also the wall containing the round stairwell window. As such, the principal roof slopes are the forward facing roofs over the bathroom as well as the stairwell area. The new roof would extend beyond the forward facing roof plane over the stairwell area and, as such, I consider the development would not be PD. This is because the wording in paragraph B.1(c) of the GPDO states that development is not permitted by Class B if *any* (my emphasis) part of the house would, as a result of the works, extend beyond the plane of *any* existing roof slope which forms the principal elevation of the house and fronts a highway.
7. The Department for Communities and Local Government published 'Permitted development rights for householders, Technical Guidance' in April 2016 which assists with the interpretation of the GPDO. This sets out (page 33) 'The principal elevation could include more than one roof slope facing in the same direction. For example, where there are large bay windows on the front elevation, or where there is an 'L' shaped frontage. In such cases, *all such roof slopes will form the principal elevation* and the line for determining what constitutes 'extends beyond the plane of any existing roof slope' will follow these slopes'. I find that the Council's approach to determining this application reflects this recent guidance.
8. The appellants refer to the grant of an LDC for a similar development at No 14. However, this decision is not directly comparable as it was made when a different version of the GPDO was in existence.
9. To summarise, whilst the proposed development would accord with the majority of the limitations set out in Classes B and C of the GPDO, it would not comply with paragraph B.1(c). Overall therefore the proposed extension would not benefit from the PD set out in Schedule 2, Part 1 Class B of the GPDO.

Conclusion

10. 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 'Conversion of roof space to habitable use to include a rear dormer, 4 front roof lights and conversion of roof from hip to gable end to both sides' 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.

D Fleming

INSPECTOR