

Appeal Decision

Site visit made on 11 January 2017

by T Shields DipURP MA MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/Q5300/X/16/3155249

5 Golf Ride, Enfield, EN2 9DA

- 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 Mehmet Oz against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/01540/CEU, dated 12 March 2016, was refused by notice dated 12 July 2016.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is the retention of 3 roof window dormers to front roof slope.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For the avoidance of doubt, I should explain that matters such as planning policies, the finished appearance of the proposed development, how it compares to other similar developments in the area, and its impact on the visual amenity of the surrounding area, are not relevant matters in this appeal. Such factors are relevant to planning applications and appeals for planning permission. They are not therefore issues for me to consider in this appeal.
3. My decision rests on whether the development carried out is lawful and is dependent solely on the facts of the case, and on relevant planning law and judicial authority. The relevant date for determining lawfulness is the date of the application.

Main Issue

4. Three dormer windows have been constructed to the front roof slope of the appellant's bungalow as part of a conversion of the roof space to habitable space. The dormers are a building operation and as such constitute 'development' within the meaning of section 55 of the Act and require planning permission.
 5. The main issue therefore is whether the Council's decision to refuse to grant a lawful development certificate was well-founded. This turns on whether or not the dormers benefit from the grant of planning permission.
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Reasons

6. No evidence has been submitted to demonstrate that planning permission has been granted by the Council for the three dormers. In addition, the plans submitted with this appeal, approved as part of an earlier LDC¹, do not include the three front dormers.
7. Therefore, the only remaining consideration before me is whether the dormers benefit from the planning permission available by virtue of Article 3 and Schedule 2, Part 1, Classes A, B or C of the Town and Country Planning (General Permitted Development) Order 2015 ("the Order"). If so, the dormers would be "permitted development".
8. Class A of the Order grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse, but excludes any alteration to **any part of the roof** of the dwellinghouse. The dormers cannot therefore be permitted development under Class A.
9. Class B of the Order grants planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. However, the limitation in Class B at B.1(c) states that development is not permitted by Class B *"if 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**"*. Given that the dormers extend beyond the principal main roof plane fronting the highway (Golf Ride) the dormers cannot be permitted development under Class B.
10. Class C of the Order grants planning permission for any other alteration to the roof of a dwellinghouse. However, the limitation in Class C at C.1(b) states that development is not permitted by Class C if *"the alteration **would protrude more than 0.15 metres beyond the plane of the slope of the original roof** when measured from the perpendicular with the external surface of the original roof"*. Clearly, that is the case in this appeal. The dormers cannot therefore be permitted development under Class C.
11. Given the above factors, I conclude that the dormers do not benefit from planning permission under the Order. Since they do not have planning permission they amount to a breach of planning control and so are not lawful.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a LDC in respect of the three roof window dormers to the front roof slope at 5 Golf Ride, Enfield, EN2 9DA, was well-founded and that the appeal should fail. I exercise accordingly the powers transferred to me under section 195(3) of the 1990 Act as amended.

Thomas Shields

INSPECTOR

¹ P13-01956LDC