
Appeal Decision

Site visit made on 19 December 2016

by Simon N Hand MA

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

Decision date: 7 February 2017

Appeal A: APP/L5810/X/16/3159522

25 Bolton Gardens, Teddington, Richmond-upon-Thames, TW11 9AX

- 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 Mrs Frances Wilding against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/1046/PS192, dated 15 March 2016, was refused by notice dated 18 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 a dormer loft conversion.
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Appeal B: APP/L5810/X/16/3159516

25 Bolton Gardens, Teddington, Richmond-upon-Thames, TW11 9AX

- 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 Mrs Frances Wilding against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/2457/PS192, dated 15 March 2016, was refused by notice dated 1 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 dormer loft conversion.
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Decisions

Appeal A - 3159522

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Appeal B - 3159516

2. The appeal is dismissed.

Main Issue

3. Whether the proposed schemes for a rear dormer fulfil the criteria of the GPDO.

Reasons

4. Both appeals are for rear dormer windows, of a similar form but with different use of materials and window shapes. There is no dispute that the only criterion of the General Permitted Development (England) Order 2015 that is at issue is B.2 of Class B of Part 1 of Schedule 2 which attaches conditions to any grant of planning permission made by Class B of the GPDO and in particular subsection (a) which deals with the use of materials.
5. Appeal A shows a large rear dormer clad on its main face with tiles to match the roof of No 25 and bricks on its cheeks. It has two windows. One tall and thin and one that is the same height but almost square. They would be housed in aluminium frames with an aluminium fascia running across the top of the whole rear face of the dormer. Appeal B would be entirely clad in zinc with similar windows, except that the fascia has been removed so the windows are slightly taller. Both would have small rooflights set in the front slope of the roof, three in the case of appeal A and two for appeal B.
6. The appellant argues the materials used in either proposal are similar in appearance to the prevailing use of materials in the area, and there are plenty of examples of similar dormers in the same street, never mind the Borough. They argue they have carefully thought through the design and wish to avoid a standard approach. I was able to see on my site visit that many of the rear roof slopes had dormers on this side of Bolton Gardens, and many of those were similar in scale to the appeal proposals. At least one was zinc clad as proposed in Appeal B and I find it difficult to disagree with the appellant that adopting a more modern approach has benefits in the aesthetic appreciation of what will always be very large rear dormers.
7. However, an application or appeal for a lawful development certificate is, in this case, predicated on the argument that the proposed development fulfils the criteria of the GPDO and so is permitted development. There is no room for any appreciation of the quality of the proposal, or whether it fits in with its neighbours. The question is simply are the proposed materials similar in appearance to the materials used in the construction of No 25 itself.
8. No 25 is an attractive semi-detached house set in a road of similar properties, and built in an Edwardian style with bow windows set in a gable facing the street and a simple, less formal style to the rear with modest windows at first floor level. It is constructed of yellowish London brick with white framed windows which appear to be timber but could be PVCu and red roof tiles. The rear windows have red brick arches that contrast with the yellow brick walls. It also benefits from a large ground floor rear extension which is also built of yellow London brick, but has a rear façade made almost entirely of french windows in aluminium frames, with a large area of glass in the gable end above under a shallow sloping roof, also with aluminium frames.
9. I note that the DCLG "Permitted Development Rights for Householders - Technical Guidance", says under the section dealing with Class B, conditions, that "*Window frames should also be similar to those in the existing house in terms of their colour and **overall shape***", but the wording of B.2.(a) is quite clear. It says "*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*" (my emboldening in both cases). There is no mention of the "shape" of the windows in the GPDO itself, it is concerned only with the

appearance of the materials. It would seem to me therefore that the materials to be used in the appeal A proposal, bricks, tiles and aluminium, would have a similar appearance to the materials in the existing dwelling, with matching bricks on the cheeks, matching tiles on the rear facing façade and aluminium frames and fascia in the windows, of a similar appearance to those used in the large rear extension.

10. The predominant material used in proposal B is zinc panels, and I could see nowhere on the existing house where zinc panels had been used and there were no other materials of a similar appearance to the zinc panels. Consequently, I consider that proposal B does not use materials of a similar appearance to the existing dwellinghouse.
11. I shall therefore allow appeal A and issue a lawful development certificate, but dismiss appeal B.

Simon Hand

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 15 March 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason: they meet the relevant criterion of Class B.2 of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015.

Signed

Simon Hand

Inspector

Date

Reference: APP/L5810/X/16/3159522

First Schedule

Dormer loft conversion as described in plan 1126 013 Rev B submitted with application Ref 16/1046/PS192

Second Schedule

Land at 25 Bolton Gardens, Teddington, Richmond-upon-Thames, TW11 9AX

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.