
Appeal Decision

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/E5330/X/16/3151752
2 Vernham Road, London SE18 3EZ

- 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 Liang Lai against the decision of the Royal Borough of Greenwich.
- The application, Ref 16/0974/CP, dated 30 March 2016, was refused by notice dated 20 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: conversion of the existing main roofspace into a bedroom with velux rooflights and, for the secondary portion of roof to receive a mansard extension.

Decision

1. The appeal is dismissed.

Background information

2. The two-storey end of terrace dwelling house is located on the east side of Vernham Road, a short distance to the south of its junction with Plumstead Common Road. The application for the LDC relates to an extension at roof level. This would incorporate part of the main roof slope (at its southern end) and the roof space above the existing rear extension. It would thus provide an extension at loft level. The submitted drawings indicate that the proposed mansard roof would spring from the existing eaves level of the rear extension.

Reasons

3. An appeal relating to a Certificate of Lawful Use or development (LDC) is confined to the narrow remit of reviewing the Local Planning Authority's (LPA) reason for refusal and then deciding whether the reasons are, or are not, *'well-founded'*. The planning merits of the case do not fall to be considered. This LDC was applied for in order to establish whether the conversion of the existing main roofspace into a bedroom with velux rooflights and the secondary portion of roof to receive a mansard extension, would be lawful.

4. The Council refused the application because the proposal was considered to conflict with part (i), paragraph (d) of Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) as well as with part (bb), condition (b), Part 1, Schedule 2.

5. Class B of the GPDO permits *'the enlargement of a dwelling house consisting of an addition or alteration to its roof'*. At B.1 there are 6 situations set out, (a) to (f), where development is not permitted. At (d) it is stated that development is not permitted if *'the cubic content of the resulting roofspace would exceed the cubic content of the original roof by more than (i) 40 cubic metres in the case of a terrace house'*.

6. In this case it is contended on behalf of the Appellant that the additional new volume would be less than 40m³ and calculations are submitted on the elevations drawing. This shows existing and proposed volumes for 'A' and 'B'. These two volumes relate to the rear extension and a section of new roof which meets the main roof slope. However, there is no indication of the overall total volume of the original roof and thus the submitted figures are inconclusive

7. Turning to the Council's second point, there are required conditions set out in B.2 which proposals must meet, if they are to be considered permitted development. At B.2(b)(i)(bb) it is stated that the enlargement must be constructed so that – *'the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge'*.

8. Having studied the submitted application drawings the above condition is clearly not met. The mansard roof starts flush with the rear extension wall rather than being set back from the eaves by the required amount. In effect, this is adding another storey to the rear extension as opposed to simply enlarging the roof. If a proposal breaches the above condition then it cannot be permitted development.

9. I have noted that it is suggested that the set-back situation could be met. However, the Council had to consider the application as made and I am not empowered to change or amend an application for a LDC in order that it might meet the GPDO requirements.

10. Thus, irrespective of whether or not the additional volume exceeds 40m³ of the original roofspace, the proposal does not constitute permitted development and would have been unlawful on the date of the application, 30 March 2016. I consider that the Council's actions were well-founded. The appeal, therefore, fails and a LDC will not be issued.

Other Matters

11. In reaching my conclusion I have taken into account all of the other matters raised by both the Council and the Appellant. However, none of these is of any significance so as to change my decision.

Anthony J Wharton

Inspector