
Appeal Decision

Site visit made on 6 April 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/A5270/X/16/3158035

4 St Annes Gardens, Park Royal, London, NW10 7HL.

- 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 Samady Syed-Mohammed against the decision of the Council of the London Borough of Ealing.
 - The application Ref. 161693CPE, dated 18 April 2016, was refused by notice dated 15 June 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 a rear roof extension (involving the conversion of the roof space into habitable use) and the installation of two roof lights to front of slope.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have used the Council's description of the development submitted to be lawful as it is more accurate and concise than the description set out in the application forms and describes the development shown on the submitted plans.

Main Issue

3. The main issue is whether the Council's refusal to issue a certificate of lawfulness was well-founded.

Reasons

4. The appeal site contains a semi-detached house which lies in a residential cul-de-sac. The application relates to the erection of a roof extension in the rear facing roof slope at second floor level, and the formation of two roof lights in the front roof slope together with the conversion of the attic space into habitable use.
 5. The appellant claims that the work falls within the provisions of 'permitted development' as set out in Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 6. However, Section 191(2) of the Act makes clear that operations are only lawful if (a) (amongst other aspects) they did not require planning permission; and
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- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
7. Although the Council did not refer to any notice in initial correspondence on the appeal, the Council have now provided a copy of a notice dated 10 April 2014 which took effect on the 9 May 2014. The notice is therefore 'in force'.
 8. Further, while the notice also refers to 'the construction of a separate residential dwelling at the rear of the property', the notice also deals with 'the alteration of the roof of the main dwelling from a hip to gable end with a rear roof dormer extension in the main roofslope, including the raising of the original roof ridge height'. This is the same development as now claimed to be lawful. The notice requires that the roof extension be removed and the original roof design reinstated.
 9. Given that there is an enforcement notice in force for the development, the work would be in contravention of Part 191(2)(b) of the Act even if Part 191(2)(a) is complied with. The development is therefore not lawful.
 10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development in respect of the rear roof extension (involving the conversion of the roof space into habitable use) and the installation of two roof lights to front of slope, 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.

David Murray

INSPECTOR