

Appeal Decision

Site visit made on 28 June 2017

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 21 July 2017

Appeal Ref: APP/Q5300/X/16/3165610
16 Melville Gardens, London N13 6ET

- The appeal is made by Leena Jugnarain under section 195 of the Town and Country Planning Act 1990 against a refusal by the Council of the London Borough of Enfield to grant a lawful development certificate.
 - The application Ref: 16/04920/CEA, dated 30 October 2016, was refused by notice dated 13 December 2016.
 - The application was made under section 192(1)(b) for operations proposed to be carried out at the house.
 - The operations in question are a loft conversion incorporating a hip-to-gable roof extension, a rear dormer and three front rooflights.
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Decision

1. The appeal is allowed and attached to this decision is a lawful development certificate relating to the operations described in the application, which I consider would be lawful if begun at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on whether or not the operations would be lawful if begun at the time of the application for the certificate. The planning merits of the operations are not relevant to the appeal and there is no planning application before me.
 3. The stated reason for the refusal of the application simply makes reference to the operations not being permitted development under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Article 3(1) and Schedule 2, Part 1, Class B. It is clear, however, from the planning officer's report and the appellant's representations that the only matter in dispute is whether the provisions of Class B.1(d) would be contravened.
 4. In relation to this house, these provisions state that the operations would not be permitted development if "the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than ... 50 cubic metres ...". There have not been any alterations to the roof of this house since it was constructed, so the "original roof space" at the time of the application was the roof space as it exists at present.
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5. The Council calculate that the operations would increase the roof space by 51.858 cubic metres. Their workings are as follows: -

"Hip to gable

$$W\ 4.37m \times H\ 3.33m \times D\ 8.77m / 6 = 21.270\ cu.m$$

Rear roof extension

$$W\ 5.34m \times H\ 2.93m \times D\ 3.91m / 2 = 30.588\ cu.m"$$

6. The appellant calculates the increase to be 49.00 cubic metres, as follows: -

$$\text{"a) Change of Hip to Gable (Semi-Inverted Pyramid) = } 1/6 \times (8.3 \times 4.3 \times 3.2) \\ = 19.03m^3$$

$$\text{b) Dormer Extension = } 1/2 \times (3.9 \times 2.9 \times 5.3) = 29.97m^3"$$

7. The greatest difference in the parties' measurements is in the measurement of the depth of the hip-to-gable extension, which the Council put at 8.77m and the appellant puts at 8.3m. It appears to me that the difference arises from the depth of the eaves at the front of the house, which extend over the shallow bay window above the front door. These eaves would be kept at the same depth in the construction of the hip-to-gable extension, with the extended roof being supported by constructing a corbel at the front corner of the gable wall. The Council's measurement takes this factor into account, but the appellant's does not; if it had done so, the appellant would have calculated the increase to be 50.08 cubic metres and not 49.00 cubic metres.
8. There is little difference between the parties' other measurements. My own measurements, which I have taken from the copy of the application drawing number "1 of 2" supplied to me, have the effect of reducing the Council's calculations of cubic content to 20.93 cubic metres for the hip-to-gable extension ($W\ 4.30m \times H\ 3.33m \times D\ 8.77m / 6$) and 29.35 cubic metres for the rear roof extension/dormer ($W\ 5.27m \times H\ 2.90m \times D\ 3.84m / 2$).
9. Accordingly, I calculate that the cubic content of the original roof space would be increased by 50.28 cubic metres. I consider this to be an increase over the permitted development limit that is too small to be taken account of, applying the principle *de minimis non curat lex*.
10. I have therefore concluded that the operations proposed to be carried out would be lawful if begun at the time of the application for the certificate. I am satisfied that the Council's refusal of the application is not well-founded. The appeal has therefore been allowed and, as required by section 195(2), the appellant has been granted a lawful development certificate under section 192.

D.A.Hainsworth

INSPECTOR