
Appeal Decision

Site visit made on 18 July 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 25 July 2017

Appeal Ref: APP/L3625/X/16/3160106

23 Fairlawn Grove, Banstead, Surrey SM7 3BN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the Act) 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 J Olding against the decision of Reigate and Banstead Borough Council (the LPA).
 - The application; Ref 16/01580/CLP, dated 4 July 2016, was refused by notice dated 26 August 2016.
 - The application was made under section 192(1)(b) of the Act as amended.
 - The proposed development for which a certificate of lawful use or development is sought is a Loft conversion incorporating hip to gable, rear dormer and front roof lights.
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Decision

1. The appeal is dismissed.

Background information

2. The appeal property is a detached bungalow on the southern side of Fairlawn Grove which is characterised by similar detached bungalows some of which have been extended over the years. Most of the original pyramid-shaped roofs to the bungalows are still evident. No 23 has also been extended in the past, with a large flat-roofed extension to the rear (south). The property is not subject to any Article 4 direction precluding further permitted development, under The Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).
3. There are four distinct elements to the LDC application. These comprise two new gables to the house; a new pitched roof (north-south); a new rear dormer to the new rear pitch (south) and new rooflights to the new front roof pitch (north). The existing main roof to the bungalow has a short-ridge, four hipped sections, and is more or less pyramidal in form. The proposal is to form two new gables to the east and west; to form a new north-south pitched roof and to add the new dormer. It is proposed to then add rooflights to the front (north) pitch of the new roof. This would result in the bungalow being extended, or enlarged, on both sides (east and west).
4. The LPA refused the application for the following reason: *'the proposal would not meet the criteria set out in the Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2, Part 1, Class B, in particular: Condition B.2(b),(i),(aa and (bb) and therefore not be permitted development'*.
5. The Council considers that the proposal meets all of the criteria within Class B of the GPDO with the exception of conditions B.2 of Class B. In the officer's report it is stated that; *'the proposal also includes an addition to the roof of a hip and gable style to both sides of the original roof. However, the extended larger roof area could not be considered a gable as the roof would not reach a point or apex due to the*

crown roof design. The proposal would not therefore accord with Condition B.2(b), (i), (aa) and (bb).

6. However, on behalf of the appellant, it is maintained that criteria (i) of condition B.2 (b) does not apply in this case as it is specifically precluded by the statement '*other than in the case of a hip to gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension*'. It is contended that this proposal '*does indeed comprise a hip to gable enlargement*' and, therefore that conditions (aa) and (bb) are not applicable.

Reasons

7. An appeal relating to a refusal to grant a Certificate of Lawful Use or Development (LDC) is confined to the narrow remit of reviewing the LPA's reason for refusal and then deciding whether or not a LDC should be issued. The planning merits of the case do not fall to be considered. I am not considering whether or not planning permission (PP) should be granted for what is proposed. I am considering whether or not PP is required. In this case, therefore, the question to be asked is whether or not the proposals would have constituted permitted development on the date that the LDC application was made: that is on 4 July 2016. I have not, therefore, taken into account any impact that the proposal might have on the character and appearance of this part of the Borough.

8. I have noted all of the other examples referred to on behalf of the appellant. These show a variety of alterations to other roofs and which were granted LDCs (on the basis of being permitted development) by the relevant LPA. However, these cases do not assist me since none covers the exact situation as in this appeal. Each proposal for a LDC must be considered on its merits; in relation to the exact works to be carried out and on the existing physical nature of the property to be extended or altered. Based on the existing building/structure, an assessment must be made as to the nature and extent of the proposed alterations/enlargement and whether or not, as a matter of fact and degree, the proposals accord with the relevant criteria set out in the GPDO as to what does or does not, constitutes permitted development.

9. In this case I have noted that the first stage of the works would involve major structural alterations to the east and west gables. In effect, two new gables would be built and these would clearly alter the existing eaves to the pyramid-shaped roof. The result of these initial works would result in not simply an alteration or enlargement to its roof, but in a significant enlargement of the property as a whole. The second phase would result in a completely new roof structure which would then form a new north-south pitched roof. The third phase would be to form a dormer in the southern slope of the new roof and, finally, the rooflights would be inserted into the north facing slope of the new pitched roof.

10. Having considered the full extent of the proposed works and having seen all of the submitted drawings, I consider that, as a matter of fact and degree, they go well beyond works to enlarge the house simply by an addition or alteration to its roof. The works clearly involve much more than this, in that the house would be fundamentally added to, or altered, in the first instance, by the building of the two new gables. The building of the gables involves major building operations or alterations to the house which, irrespective of whether any further roof works were carried out, would result in a noticeable and significant enlargement of the house.

11. Thus, this is far from a straightforward addition to the roof, or for that matter a 'hip to gable' roof extension. At best it could be described as a double '*hip to gable* extension. But, as a matter of fact and degree, I consider that it is complete change and alteration to the bungalow which would result in an enlarged bungalow with a

completely new roof. I do not consider, therefore, that it can be described as merely a '*hip to gable*' extension which is in compliance with the GPDO regarding what might constitute permitted development. Rather than altering a single hip to the roof and forming a gable (as for a typical permitted development '*hip to gable*' roof alteration), the proposal involves the building of two completely new gables; the complete removal of two hipped roof sections and their replacement with a new pitched roof. In my view this goes well beyond what would normally be perceived as being a simple '*hip to gable*' addition or alteration to the house.

12. Thus, I do not consider that the proposal as applied for would have constituted permitted development at the time of the application. As well as not complying with conditions B.2 of Class B of the GPDO, it is also my view, (despite the contrary view of the appellant and the LPA) that the proposal does not accord with the requirements of Class C (other alterations to a roof). This is because, under this section of the GPDO, before setting out the various conditions, C.1(a) and (b), it is clearly indicated that '*such alterations will not involve any enlargement of the house*'.

13. I have explained above that, as a matter of fact and degree, the complex proposed building operations would most certainly involve the '*enlargement of the house*'. Putting aside the planning merits, there is no doubt in my mind that the proposal would be perceived as an enlargement of the house and does not constitute permitted development under Class C.

14. I conclude, therefore, that at the time of the LDC application, the proposals were not lawful and that planning permission would have been required for the works as proposed. The appeal, therefore fails and a LDC will not be issued.

Other Matters

15. In reaching my decision I have taken into account all of the other matters raised by the Council and on behalf of the appellant. These include the detailed statements and grounds of appeal; the final comments; the other examples; the different interpretations of what constitutes a '*hip to gable*' extension; the quoted definitions of '*hipped roof*'; '*pitched roof*' and '*gable roof*' and the contention, made on behalf of the appellant, that the proposal constitutes a '*hip to gable*' extension.

16. However, none of these carries sufficient weight to affect my own judgement and reasoning as set out above or my conclusion that the proposals do not constitute permitted development for the purposes of the GPDO. I reiterate my view that planning permission would be required for these extensive alterations to the detached bungalow.

Anthony J Wharton

Inspector