
Appeal Decision

Site visit made on 25 July 2017

by Nigel Burrows BA MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/Z5060/X/17/3166796
378 Heathway, Dagenham, RM10 8NS

- 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 Leonard Gaxha against the decision of the Council of the London Borough of Barking & Dagenham.
- The application Ref: 16/01684/CLU_P dated 25 October 2016, was refused by notice dated 23 December 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 described as 'Loft conversion with rear dormer and front skylights'.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the refusal of the application for an LDC for the works described within the fifth bullet point of the heading above was well-founded.

Reasons

3. The appeal property is a two-storey terraced house situated within Heathway in Dagenham. Notwithstanding the appellant's description of the works recited above, in effect, the loft conversion includes the construction of a hip-to-gable roof enlargement, together with a rear dormer and the insertion of rooflights in the modified front roof slope.
4. There appears to be no dispute that the works proposed to the property involve the carrying out of development for the purposes of section 55 of the Town and Country Planning Act 1990. However, it is also necessary to consider whether permission would be granted for these works under the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, which grants permission for various classes of 'permitted' development (i.e. the GPDO).
5. The Council's stance is the proposal should be considered under the provisions of Class B, Part 1, Schedule 2 of the GPDO - which deals with the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. I see no reason to disagree.¹
6. The Council considers the proposal fails to meet one of the limitations set out in paragraph B.1 of Class B. The limitation in question is paragraph B.1.(c) - namely

¹ The Council has also considered the works in relation to Class C: 'Any other alteration to the roof of a dwellinghouse', presumably as rooflights are proposed - but these would appear to be inserted in the modified roof

that development is not permitted by Class B if “*any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway*”.

7. The Council derives support for its approach from the government’s publication ‘Permitted development rights for householders: Technical Guidance’.² This confirms the principal elevation of a property could include more than one roof slope facing in the same direction. The guidance indicates that all such roof slopes will form the principal elevation for the purposes of determining what ‘extends beyond the plane of any existing roof slope’.³
8. As the Council points out, this terraced property has two roof slopes forming the principal elevation fronting a highway. The front elevation of the dwelling incorporates a roof with a hipped end, however, there is also a recessed roof extending to the side boundary. The works proposed to the property would extend beyond the plane of this recessed roof slope and would line up with the plane of the forwardmost roof slope.
9. The submissions for the appellant are confined to the planning merits of the proposal.⁴ No technical arguments concerning the GPDO are advanced to refute the Council’s analysis. In any event, on the evidence before me, I see no reason to disagree with this analysis.
10. It is well established in planning law that the onus rests with the appellant to make out his or her case. I find that burden has not been satisfactorily discharged in this particular instance. In the circumstances, I conclude the Council’s refusal to grant a certificate of lawful development was well-founded. The appeal therefore fails.
11. I have taken into account all the other matters raised in the representations, but I find they do not alter or outweigh the main considerations that have led to my decision.

Nigel Burrows

INSPECTOR

² The latest version was published in April 2017

³ Pages 34-35 of the latest Technical Guidance

⁴ The planning merits of the proposal are not before me in this appeal