
Appeal Decision

Site visit made on 16 August 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 23 August 2017

Appeal Ref: APP/G5180/X/17/3171854

62 Manor Way, Petts Wood, Orpington, BR5 1NW

- 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 & Mrs Rons against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/16/03140/PLUD, dated 30 June 2016, was refused by notice dated 31 August 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 a loft conversion with rear dormer.

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. The proposal is described on the notice of refusal as 'loft conversion with gable extension, rear dormer and roof-lights'. This description includes the elements that make up the proposed development and I will take it into account in my determination of this appeal.

Main Issue

2. The main issue is whether the proposal is permitted development by virtue of Class B of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (GPDO).

Reasons

3. The appeal property is a semi-detached two storey dwelling. The proposal comprises a gable extension, a rear dormer with a Juliette balcony and roof-lights in the front, side and rear roof slopes.
4. S.55 of the 1990 Act describes 'development' as the carrying out of building, engineering, mining or other operations in, on, over or under land and, subject to a number of specified exceptions, planning permission is required for the carrying out of any development of land¹. One of the specified exceptions is provided for by Article 3 of the GPDO pursuant to which planning permission is granted for the classes of development described as permitted development in Schedule 2.

¹ S.57 of the 1990 Act

5. Class B of Part 2 of Schedule 2 permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof subject to a number of specified tolerances, limitations and conditions. The only matter for consideration in this appeal is B.1(c) which states that development is not permitted 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'.
6. There is no dispute that the dwelling has two principal roof slopes² one of which is the existing smaller roof slope which serves the stairway and landing.
7. The Appellants have referred me to the Technical Guidance³ which states in relation to B.1(c) that its 'effect is that dormer windows as part of a loft conversion, or any other enlargement of the roof space, are not permitted **on** a principal elevation that fronts a highway' with their emphasis on the word 'on'. The Appellants contend that because none of the works proposed would be positioned on either of the principal roof slopes which front the highway and no additions would project beyond the front roof, the proposal would not offend B.1(c)⁴.
8. One of the aims of the Technical Guidance is to provide an explanation about the detailed rules covering what improvements can be made to a house as permitted development. The Technical Guidance is therefore guidance only and whilst it is relevant I have to determine the appeal on the basis of the GPDO. Although the proposed gable end extension would not be on either of the principal roof slopes it would be forward of the second principal roof slope⁵. The gable end extension would therefore be 'a part of the dwellinghouse extended as a result of the works' and the Appellants accept that it would extend beyond, that is, be forward of, the smaller of the two principal roof slopes. For this reason the proposed works would offend B.1(c) and thus would not be permitted development.
9. The Appellants refer to 'an almost identical loft conversion'⁶ in a nearby property that was granted a LDC⁷. I accept that that proposal was similar to the one in this appeal but I note that the Council has since conceded that that LDC was granted in error⁸. Whatever the outcome of that application, I have to determine this appeal on the basis of the application made by the Appellants and the terms of the GPDO.

Conclusions

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a loft conversion with rear dormer 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.

² Paragraph 5.4 of the Appellants' grounds of appeal

³ DCLG – Permitted Development for Householders

⁴ Paragraphs 5.6 and 5.7 of the Appellants' grounds of appeal

⁵ Paragraph 6.2 of the Appellants' grounds of appeal

⁶ Paragraph 1.2 of their grounds of appeal

⁷ Ref DC/16/02270/PULD

⁸ Appendix 3 to the Appellants' grounds of appeal

Decision

11. The appeal is dismissed

Gloria McFarlane

Inspector