
Appeal Decision

Site visit made on 28 March 2018

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

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

Decision date: 11 April 2018

Appeal Ref: APP/A5840/X/17/3180899
35 Half Moon Lane, London SE24 9JX

- The appeal is made by Baptiste Aboulain under section 195 of the Town and Country Planning Act 1990 against a refusal by the Council of the London Borough of Southwark to grant a lawful development certificate.
 - The application Ref: 17/AP/0058, dated 23 September 2016, was refused by notice dated 1 April 2017.
 - The application was made under section 192(1)(b).
 - The development for which the certificate is sought is "• Loft conversion with two side dormers, one on each side of the building; • Extension of rear part of the main roof".
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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 Council refused the application since they considered that the operations would not be permitted development, because (i) a chimney would be removed, (ii) the dormers would not be finished in matching materials and (iii) the roof extension at the rear would project more than 0.15m. I have dealt with these matters in turn in the following paragraphs (references to classes are to the classes set out in Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015).

The removal of the chimney

4. The Council's report correctly states that Class B excludes the alteration or replacement of a chimney. However, all the classes in the Order should be taken into account when an assessment is made to determine whether operations would be permitted development. The report overlooks Class G, which permits the alteration or replacement of a chimney. I do not consider
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that this permission should be interpreted narrowly. The chimney in question would be altered by taking it down to ceiling height and replacing it with one of the side dormers in the loft conversion. In my opinion, these works would be within Class G.

The materials used in the dormers' finishes

5. The permission granted by Class B is subject to a condition that "the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse". This does not mean that the materials must be the same or match exactly; their visual impact is the main consideration.
6. The application has some inconsistencies. The form states that the dormers' sides would be finished in lead and the elevations drawing points to lead finishes here, although the pattern used to depict the sides does not match the notation used for lead on the drawing or any of the other notations. The drawings depicting 3D views show the dormers' sides finished in hanging tiles.
7. The condition would be satisfied whether lead or the hanging tiles were used. Lead would have a similar appearance to the materials used in the existing dormer-type projection at the front of the house. The hanging tiles would have a similar appearance to the existing tiles used on the roof of the house.

The roof extension's projection

8. The Council have assessed the roof extension at the rear against Class C. However, permission is granted for it by Class B as an "enlargement ... consisting of an addition or alteration" to the roof. It does not also have to comply with the limitations in Class C, since these relate to "other alterations to the roof", i.e. alterations not involving an enlargement.

Conclusion

9. 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