



Appeal Decision

Site visit made on 10 September 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/F5540/X/18/3216805

51 Grove Crescent, Feltham TW13 6NB

- 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 and Mrs Kanda against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00524/51/LAW4, dated 17 August 2018, was refused by notice dated 23 October 2018.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is an outbuilding with a pitched roof.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have noted that the appellants have submitted revised plans with the appeal which show a flat roofed outbuilding and alterations to internal walls. It has been requested that the current appeal is determined on the basis of these revised plans. However, the appeal process should not be used to evolve a scheme and it is important that what is considered by me is essentially what was considered by the local planning authority. If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh application.
3. Therefore for the avoidance of doubt this appeal has been determined on the drawings which were submitted to the Council and on which their decision was made; namely:

PL-000 Location Plan dated August 2018

PL-001 Block Plan dated August 2018

PL-002 Site Plan dated August 2018

PL-003 Existing Ground Floor Plan dated August 2018

PL-004 Existing First Floor Plan dated August 2018

PL-005 Existing Front and Rear Elevations dated August 2018

PL-006 Existing Side Elevations dated August 2018

PL-007 Proposed Ground Floor Plan dated December 2017

PL-008 Proposed First Floor Plan dated December 2017

PL-009 Proposed Elevations to outbuilding dated December 2017

PL-010 Proposed side elevations dated December 2017

Main Issue

4. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Class E(a) of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

5. In a case such as this the onus of proof is on the appellant to show that on the balance of probabilities the development would be lawful at the time of the application.
6. Under Class E(a), the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of a dwellinghouse as such is permitted development. In this case there are two key issues; firstly whether the development would comply with the dimensions set out in Clause E.1 (e) (ii) of Class E and secondly whether the proposal would be required for a purpose incidental to the enjoyment of the dwellinghouse at 51 Grove Crescent.
7. Under Clause E.1 (e) (ii) development is not permitted if the height of the building would exceed 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse. It is clear to me from the submitted plans that the proposed outbuilding is within 2 metres of the boundary with a maximum height in exceeding 2.5 metres – the height to the ridge being shown as approximately 4 metres. Therefore, the proposed outbuilding is not permitted by virtue of the GPDO.
8. That being the case, irrespective whether the proposal would be required for incidental purposes, the proposal fails to comply with the terms of the GPDO and planning permission would be required. In determining this appeal I have had regard to the evidence submitted by the appellants, including other appeal decisions, but I have determined this case on its own merits.

Conclusion

9. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a proposed outbuilding was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A A Phillips

INSPECTOR