



Appeal Decision

Site visit made on 24 September 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2019

Appeal Ref: APP/B4215/X/19/3223275

31 Albert Hill Street, Manchester M20 6RF

- 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 Avtar Sokhi against the decision of Manchester City Council.
 - The application Ref 121431/LP/2018, dated 2 October 2018, was refused by a notice dated 14 December 2018.
 - 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 an L-shaped dormer extension to existing dwelling house.
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Decision

1. The appeal is dismissed.

Reasons

2. Section 192(2) of the Town and Country Planning Act 1990 as amended (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.
3. The proposed development is described as an L-shaped dormer extension to the existing dwellinghouse. The existing dwelling is a mid-terraced two-storey dwelling which has a rear outrigger with a cat-slide roof. From the evidence before me it appears that the outrigger is part of the original dwelling with its cat-slide roof forming part of a single pitched roof which covers the rear of the dwelling. The rear outrigger contains a bathroom at first floor level within its roof space.
4. The Council's view is that it is necessary to assess the proposal under Class A, Part 1, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). It considers the proposal to be an upwards extension of the single storey outrigger, and not just an alteration or extension to the existing roof. However, in this case there is a single roof extending across the whole of the dwelling's rear

accommodation. The enlargement would extend solely from the roof of the existing dwelling and be a substantial roof enlargement above the existing outrigger. I therefore consider that Class A is not applicable to this case. The proposal should be considered under Class B of Part 1, Schedule 2 of the GPDO.

5. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted by Class B, Part 1, Schedule 2, Article 3 of the GPDO, subject to restrictions set out in B.1 and conditions at B.2. There is no dispute between the parties that the proposal would meet the restrictions at Class B.1 and I note that the Council are satisfied that the conditions at B.2 would also be met. However, for the reasons given below, it seems to me that there would be a breach of condition B.2 (b) (i).
6. Condition B.2 (b) states that the enlargement must be constructed so that –
 - (i) other than in the case of a hip-to-gable enlargement or enlargement which joins the original roof to the roof of a rear or side extension –*
 - (aa) the eaves of the original roof are maintained or reinstated; and*
 - (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and*
 - (ii)...*

In this case the proposal is not for a hip-to-gable enlargement and nor is it for an enlargement which joins the original roof to the roof of a rear or side extension. Whilst I appreciate that there is a rear outrigger, there is only a single original roof at the rear of the property which would be enlarged, and not two separate roofs to be joined. Therefore, the proposed development would not be an exception as described in paragraph B.2 (b) (i), and hence conditions (aa) and (bb) must be met.

7. The original roof has two sets of eaves, one at the bottom of the cat-slide roof and the other above the first-floor existing rear bedroom window. To meet the conditions at (aa) and (bb), both of those sets of eaves must be maintained or reinstated; and the edge of the enlargement closest to the eaves, so far as practical, should be not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves. Whilst the proposed drawings indicated that these conditions would be met in relation to the eaves at the higher roof level, the roof enlargement above the rear outrigger would not maintain those existing lower level eaves and nor would the edge of the enlargement be set in from them.
8. The requirement at B.2 (b) (i) is not therefore met and the proposal would not be permitted development within Class B of the GPDO.

Other Matters

9. I have had regard to other decisions drawn to my attention by the appellant in his statement of case. However, I do not know the precise details of those other proposals and how they equate to those proposed in this case. In any event, I have determined this appeal on the basis of the plans and details of the proposal before me.

Conclusion

10. For the reasons I have given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of an L-shaped dormer extension to existing dwelling house 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.

Elizabeth Pleasant

INSPECTOR