
Appeal Decision

Site visit made on 12 February 2020

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 18th February 2020

Appeal ref: APP/F5540/X/19/3229765
121 Hounslow Road, Hounslow TW14 0BB

- 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 by the London Borough of Hounslow Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Hadi Ashrafian.
- The application, reference 00631/121/LAW1, dated 22 February 2019, was refused by a notice dated 18 April 2019.
- The application was made under section 192(1)(b) of the Act for a certificate of lawfulness of proposed development.
- The development for which a certificate of lawful use or development was sought was for the erection of a two storey rear extension and erection of a side roof extension to both elevations incorporating a front roof window and two new chimneys to the house.

Summary of decision: A certificate of lawfulness is not issued.

Appeal property

1. The appeal concerned Mr Hadi Ashrafian's intention to add a two storey rear extension, a side roof extension to both elevations with a front roof window and 2 new chimneys to the detached house at 121 Hounslow Road, Hounslow. At the time of the site inspection, the extensions the subject of this appeal were substantially complete.

Inspector's considerations

2. The Council said Mr Ashrafian's extensions did not comply with condition A.3(c) to Class A nor to condition B.2(c)(ii) to Class B of Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order). They said that was because the roof pitch of the two story rear extension was not the same as the roof pitch of the original dwelling house. Also, the side facing windows of the roof extensions were not shown as non-opening.
3. The Council's main reason for refusing the application, a failure of the 2 storey rear extension to comply with condition A.3(c) to Class A of the Order, was justified. The rear extension's flat roof design makes no attempt to comply with the A.3(c) test where: *"the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse."* The word "practicable" means a task people are able to

carry out. As drafted in the Order, it suggests a degree of flexibility. But it also means that a genuine attempt is to be made to achieve the objective that the enlarged part of the house is to have the same roof pitch as the original dwellinghouse. The proposal here is to copy the dormer windows' flat roofs that would replace most of the house's original pitched roof. The project clearly fails to comply with condition A.3(c), Class A of the Order.

4. The proposal also fails to comply with Condition A.1(i) to Class A. That says Development is not permitted by Class A if – Condition A.1(i) *the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres*. Here, the submitted plans show the almost 8m high eaves of the dormer window were to be less than 2m from the boundary and the side wall to the house next door at No. 119.
5. Class B, condition B.2(a) requires materials used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The intention of that condition, according to page 35 of MHCLG publication, Permitted development rights for householders, Technical Guidance, is to ensure that any addition or alteration to a roof for a loft conversion results in an appearance that minimises visual impact and is sympathetic to the existing house. That means the materials used should be of similar visual appearance to those in the existing house; the face and sides of a dormer window should be finished using materials that give a similar visual appearance to the existing house. Here, use of a large areas of obscure glazing would be an unsympathetic match to the walls of the original house, sufficient to fail compliance with condition B.2(a).
6. The failure to show on the submitted plans that the windows on the dormer would be non-opening may seem a small point, (Condition B.2(c)(ii)). However, it is not enough to simply say that the proposal complies with conditions and limitations to the Order. That could be no more than an expression of opinion. Conditions cannot be attached to a lawful development certificate. Application plans must show all necessary details.
7. It is the applicant's responsibility to provide evidence to support the application. The proposed extensions at No. 121 Hounslow Road fail to comply with all conditions and limitations to concessions in the Order. Planning permission is required for their construction.

FORMAL DECISION

8. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development in respect of the erection of a two storey rear extension and erection of a side roof extension to both elevations incorporating a front roof window and 2 new chimneys to the house at No. 121 Hounslow Road, Hounslow TW14 0BB was correct and that the appeal should fail. I exercise the powers transferred to me in section 195(3) of the 1990 Act as amended.

John Whalley

INSPECTOR