



Appeal Decision

Site visit made on 8 January 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 February 2020

Appeal Ref: APP/Z5630/X/19/3227288

35 Barnfield Gardens, Kingston upon Thames, KT2 5RH

- 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 Hasan Azawi against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 19/00521/LDP, dated 28 February 2019, was refused by notice dated 16 April 2019.
 - 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 described as 'add a dormer to the existing loft'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

3. Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out permitted development (PD) rights for the enlargement of a dwelling house consisting of an addition or alteration to its roof, subject to a number of conditions and limitations.
4. The proposal comprises a new box dormer to the rear roof slope, with the existing roof hip altered to a gable to accommodate the alteration. Under Class B.1 (d) (ii), development is not permitted if the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic meters, in the case of a semi-detached house.
5. On the basis of the submitted plan PA-7, and plan PA-9 which was submitted after the application, the volume of the new dormer extension would be 34.7m³. The Council calculate the additional hip to gable volume to be 17.27m³, bringing the total additional volume to the roof to 52m³.
6. The appellant disputes these figures. Accompanying his statement of case are extracts from the Planning Portal roof calculation page showing his calculations. The figures he gives are 30.3m³ for the new dormer and 18m³ for the hip to gable extension, bringing the total volume of the development to 48.4m³.

However, the height of the new dormer within these calculations is given as 2.9m, whereas the height on plan PA-6 is shown to be 3.174m. No explanation is given for this discrepancy.

7. In any application for an LDC, the onus is on the applicant to demonstrate that the proposed development would be lawful. In this case, I conclude that the appellant has failed to show that the proposed extension is permitted development under Schedule 2, Part 1, Class B of the GPDO.
8. It has no bearing on my decision that two LDC applications have been granted by the Council at properties in the vicinity of the appeal site.

Conclusion

9. For the reasons above, I consider that the Council's refusal to grant an LDC for the proposed extension was well-founded, and so the appeal is dismissed.

Elaine Gray

INSPECTOR