



Appeal Decision

Site visit made on 11 February 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2020

Appeal Ref: APP/N5660/X/19/3224080 66 Broxholm Road, London SE27 0BT

- 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 Waqar Piracha against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/03135/LDCP, dated 22 July 2018, was refused by notice dated 5 October 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 a rear dormer loft extension to create living space within the residence.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have noted that since the decision was issued the Council has changed its interpretation of Condition B.2(b) part (ii) of Class B of Part 1, Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO). Therefore, as it stands there is no dispute between the main parties on this matter. However, there remains conflict with respect to Condition B.2(b)(i)(bb) which is the focus of this decision.

Main Issue

3. 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 B of Part 1 of Schedule 2 of the GPDO.

Reasons

4. Class B, Part 1 of Schedule 2 of the GPDO allow for additions etc to the roof of a dwellinghouse. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted development. However, this is subject to conditions, including B.2(b)(i)(bb) which states that "*the enlargement must be constructed so that, other than in the case of a hip-to gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension - 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 edge of the eaves”.

5. The proposed rear dormer loft extension is not a hip to gable extension nor does it involve joining the roof of any side or rear extension. However, the Council states that ‘Permitted development rights for householders, Technical Guidance 2019 (Technical Guidance)’ suggests that ‘L-shaped dormer’ would normally be interpreted as an enlargement which joins the original roof to the roof of a rear or side extension, which means that in this case the proposal would be exempt from restrictions under B.2 (b)(i)(aa) and (bb). The Council contends that to extent to which an L-shaped dormer is exempted from compliance with the relevant condition relates only to the junction of the enlargement at the relevant roof slopes. Elsewhere, there should be a set-back as required by the GPDO. This interpretation is consistent with other recent appeal decisions.
6. The plans submitted show that the eaves of the outrigger is not a continuation of the eaves on the main part of the property. Consequently, two different eaves need to be considered under (b)(i)(bb). Also, there is an existing rear dormer feature on the rear elevation of the main building which does not appear to be an original part of the dwelling. In order to comply with the requirements of Class B, the consideration in this case is therefore the position of the eaves of the original roof which excludes this existing dormer.
7. The drawings show that the proposed dormer loft extension would be closer than 0.2 metres from the eaves of the original roof with respect to both the main building and the outrigger. Such set back is required unless it can be demonstrated that it is not possible due to practical or structural reasons. I do not consider that there is sufficient evidence before me to demonstrate that there are such practical or structural reasons in this case.
8. The appellant has drawn my attention to another appeal case but it seems to me that the case quoted has little relevance to the appeal before me because the facts of the cases are very different. In any case I have determined the current appeal on its own merits.

Conclusion

9. For the reasons given above I conclude, on the evidence now available, that the Council’s refusal to grant a LDC in respect of the proposal for a rear dormer loft extension to create living space within the residence was well-founded and the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

Formal Decision

10. The appeal is dismissed.

A A Phillips

INSPECTOR