

Appeal Decision

Site visit made on 26 February 2020

by John Whalley

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 5th March 2020

APP/E5330/X/19/3234516

35 Paget Rise, Plumstead, London SE18 3QQ

- 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 Greenwich Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Biljana Glusica.
- The application, reference 19/1142/CP, dated 21 March 2019, was refused by a notice dated 10 May 2019.
- The application was made under section 192(1)(b) of the Act for a certificate of lawfulness of the proposed development.
- The development for which a certificate of lawful use or development was sought was for the construction of a L-shaped loft conversion with rear dormers and roof lights to the front plane of the roof including reinstatement of the decorative pitched roof above the front bay window.

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

Appeal property

1. The appeal property, No. 35 Paget Rise, Plumstead, is a mid-terrace 2 storey house. Recent large scale renovations, roof works and rear extensions to the property have been completed. Those works were in apparent compliance with the plans associated with the appeal application for a certificate of lawfulness.

Project

2. The Appellant, Mr Biljana Glusica, wished to extend his home by building a large 'L' shaped dormer window at the rear of the house, above the long single storey outrigger. Three roof windows were to be fitted to the front elevation pitched roof slope. The flat roof over the bay window would be replaced by a pitched roof.
3. The application for a certificate of lawfulness was made on 21 March 2019 under s.192(1)(b) of the Act for proposed works. It may be assumed that, at that time, the renovation and extension works had not been started.
4. I deal with the application on the basis of whether the works set out in the drawings that accompanied the 21 March 2019 application would have been lawful at that time.

Inspector's considerations

5. The Council said the proposed reinstatement of the pitched roof above the front bay window would connect to the front roof slope of the existing house. As such the then proposal would not comply with limitation B.1(b) to Article 3, Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order).
6. The Order, at Schedule 2, Part 1, Class B – additions etc to the roof of a dwellinghouse, has a list of condition and limitations to development permitted by the Order. Condition B.1(c) says – *development is not permitted by Class B if – B.1(c): any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.*
7. Mr Glusica said the proposed decorated pitched roof above the bay window would merely be a re-instatement of an original feature of the house. He said it would not be an addition or alteration to a roof within the meaning of Class B. The reinstatement of a previous/original feature did not constitute development. The works would comprise repair/maintenance.
8. In my view, the Council were right to conclude that the construction of a pitched roof over the bay window to No. 35 would have required planning permission. The original pitched roof had been removed. It was replaced by a flat roof. To then replace the flat roof with a new roof to the original design would have been a new construction, bringing part of the roof forward and above the existing main road facing roof slope. That work, albeit seen as an improvement, would not constitute a repair or maintenance because the original pitched roof had gone. It was not there to be maintained or repaired. As a result, the proposed bay window pitched roof would not be permitted development because of the failure to comply with condition B.1(b) of the Order. It may seem sophistic to come to this conclusion, especially as this part of the extension proposals were an intended enhancement of the appearance of the house. However, Order concessions are unconcerned with planning merit.
9. The Council said the rear dormer construction did not satisfy condition B.2(a) in Class B. That said Development is permitted by Class B subject to the following conditions — *(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.* The Council said the window frames and windows within the rear face of the dormer outrigger would be of significant size, covering nearly the full width and height of the proposed dormer's rear elevation. Also, because of the high level of fenestration on the rear face of the dormer the proposal would not meet the requirements of the condition.
10. Mr Glusica said the Council's view was fundamentally wrong. They had taken into account the visual appearance/design merits of the project.
11. I note that the intention of condition B.2(a), 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. The advice goes on to say: This means the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials or match exactly. The visual impacts of the materials used will be the most important consideration. For example: (b) the flat roofs of dormer windows will not normally have any visual impact and so, in that case, the use of materials such as felt, lead or zinc for flat roofs of dormers will therefore be acceptable. The face and sides of a dormer window should be finished using materials that give a similar visual appearance to existing house. So the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level. Window frames should also be similar to those in the existing house in terms of their colour and overall shape.

12. It follows that some account is to be taken of the comparison between the existing appearance of the house and that intended. The use of the words: *"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."*, suggests some consideration of the visual effect of the extensions is needed, without coming to a view on their acceptability in terms of planning merits. Also use of the words: *"The visual impacts of the materials used will be the most important consideration."*, in the advice supports that view.
13. In the present instance, the use of tile or slate hung finishes to the large rear dormer to match the existing roof was to meet the Order condition. In my view, that part of the condition is met. However, the condition says the window frames should also be similar to those in the existing house in terms of their colour and overall shape. Here it cannot be realistically said that the shape of the dormer windows match those of the existing house. The large trapezoidal dormer window and the full depth French style door windows of the large dormer are not of a similar shape to those of the original house. I conclude that they do not meet the terms of condition B.2(a) to Class B to Article 3, Schedule 2, Part 1, of the Order. Again, this is not a determination as to the merits of the design or appearance of the extension works.

FORMAL DECISION

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development in respect of the construction of an L - shaped loft conversion with rear dormers and roof lights to the front plane of the roof including reinstatement of the decorative pitched roof above the front bay window at No. 35 Paget Rise, Plumstead, London SE18 3QQ, 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