
Appeal Decision

Site visit made on 3 February 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2020

Appeal Ref: APP/L5810/X/19/3236473

38 Myrtle Road, Hampton Hill, Hampton TW12 1QB

- 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 and Mrs R Davies against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1908/PS192, dated 19 June 2019, was refused by notice dated 24 July 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 the construction of an extension to the rear of an existing loft conversion to an existing two-storey plus loft semi-detached Victorian single-family dwelling house on the west side of Myrtle Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice had a different, and simplified, description of development from that on the application form. I have used the address from the latter document.
3. As the drawings originally submitted in support of the application contained inaccuracies, a number of revised drawings were submitted on the 16 July 2019. That the Council took the revised drawings into account is apparent from its decision notice. I saw at my site visit that work to extend the property had been undertaken, and it appears that this is in accordance with the revised drawings. Nevertheless, I will assess the proposal before me.

Reasons

4. No. 38 Myrtle Road is a mid-terraced property that originally had accommodation over two floors. A third floor of accommodation has been added, through a flat-roofed extension to its rear roof slope. This extension, which is the subject of the appeal, is visible from public vantage points to the north of the site.
5. The application was made on the basis of the permitted development rights set out in Class B of Part 1 of Schedule 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, ('the Order'). Subject to meeting certain criteria and conditions, this Class grants

- planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
6. Amongst the conditions is B.2.(a), which states that 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 Order interprets existing as meaning existing immediately before the carrying out, in relation to that building, of development described in the Order.
 7. The Council refused to issue a certificate on the basis that this condition was not met. Its position is that the roof covering on the existing roof is not similar to that which has been used on the extension.
 8. The burden of proof in this matter lies with the appellant. Notwithstanding that his statement variously refers to the existing covering as being "grey slates/tiles" and "grey artificial slate", his evidence, which includes photographs of the original roof covering, is sufficiently precise and unambiguous. I am persuaded by this that the existing roof is covered in a grey artificial 'slate', rather than the red/brown tiles alleged by the Council. In reaching this position, I saw, the roofs of Nos 32-36 Myrtle Road were covered in a red/brown tile. Their colour and patina were fundamentally different to the roof covering on the appeal site.
 9. However, colour is only one element of appearance in terms of Condition B.2.(a). The 'slates' on the existing roof are thin and they have a smooth finish. Those on the extension appear to be constructed from concrete, are significantly thicker, bulkier and heavier, and have a granular finish. To my mind, for these reasons, they are markedly different to the existing tiles.
 10. I therefore find that the development does not accord with Condition B.2.(a) as the external finish to the proposed development is not of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The proposed development does not, therefore, benefit from the permitted development rights set out in Class B of Part 1 to Schedule 1 of the Order.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the construction of an extension to the rear of an existing loft conversion to an existing two-storey plus loft semi-detached Victorian single-family dwelling house on the west side of Myrtle Road 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.

Roy Curnow

INSPECTOR