



Appeal Decision

Site visit made on 22 January 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 March 2020

Appeal Ref: APP/N4720/X/19/3230438

1 Brooklyn Place, Leeds, West Yorkshire LS12 2BT

- 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 Tal Younas against the decision of Leeds City Council.
 - The application Ref 19/00328/CLP, dated 18 January 2019, was refused by notice dated 10 May 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 'single storey extension to the rear, hip to gable extension and dormer windows to the rear as shown on proposed plan 06/19/02'.
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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 (GPDO) 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 appeal site is a two-storey end-of-terrace residential property, with three elevations facing different highways. The proposal comprises a new box dormer to the roof slope facing Brooklyn Place, with the existing roof hip extended 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. In his statement of case, the appellant says he believes the proposed new dormer would be 28m³ and that the hip to gable extension would add a volume of just under 22m³, bringing the total additional volume to slightly inside the 50m³ allowance. Although I have been provided with a drawing (ref: 06/19/02) of the proposal, there are insufficient dimensions given to

- demonstrate that the appellant's calculations are accurate. No methodology is supplied to show how he has arrived at the stated figures.
6. Similarly, the Council has supplied little evidence of their working out of the volume. However, in any application for an LDC, the onus is on the appellant to demonstrate that the proposed development would be lawful. Here, the appellant has not provided a sufficiently accurate or precise calculation of the volume of the previous roof enlargement.
 7. In these circumstances I consider that, on the balance of probabilities, the proposed rear dormer would not be permitted development under the provisions of Class B of Part 1 to Schedule 2 to the GPDO.
 8. Under Class B.1(c), development is not permitted if 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. There is dispute between the parties as to the status of the Brooklyn Street façade. Although the Council make reference to the 'original' dwellinghouse, meaning the building as it existed on 1 July 1948, given that it was built before that date, the word 'original' does not appear in paragraph B.1(c). Instead, from my reading, the reference is to the principal elevation as it exists in the present day.
 9. I have been provided with floorplans of the house, which indicate that the building is now laid out as a single dwelling. In terms of architectural treatment, the more elaborate Brooklyn Street frontage is characteristic of a principal elevation, whereas the Brooklyn Place facade is notably plainer in appearance. Taking these two factors into account, it seems to me that Brooklyn Street may be regarded as the principal elevation, whereas Brooklyn Place is the rear elevation.
 10. I accept that the address of the appeal site is given as 1 Brooklyn Place, whereas the 'front' door appears to relate to 2 Brooklyn Street. However, the building does appear to have been split into two dwellings in the past, and the anomaly may stem from this point in its history. However, in my view, this matter is not conclusive.
 11. Therefore, if the proposed dormer had fallen within the size limits referred to above, it would be located on the rear elevation, and so would satisfy the requirements of Class B.1(c).

Conclusion

12. For the reasons above, I find 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