



Appeal Decision

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2020

Appeal Ref: APP/D5120/X/19/3242247
308 Gipsy Road, Welling DA16 1JJ

- 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 John Kelly against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/01925/LDCP, dated 6 August 2019, was refused by notice dated 31 October 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: Loft conversion including dormer window.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council were given an opportunity to provide comments on this approach and I have taken any responses into account.

Main Issue

3. The main issue is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

4. The proposal is for a dormer roof extension. The appellant considers this is permitted development and that measurements for it should be taken internally and not externally. However, paragraph 2.(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the Order') states that "cubic content" means the cubic content of a structure or building measured externally.
5. Schedule 2, Part 1, Class B, paragraph B.1(d) of the Order requires that the cubic content of the resulting roof space must not exceed the cubic content of the original roof space by more than 40 cubic metres in the case of a terrace house or 50 cubic metres in any other case. In this case the appeal property is

- semi-detached so the cubic content of the resulting roof space must not exceed the cubic content of the original roof space by more than 50 cubic metres.
6. The evidence indicates the property has had a previous enlargement of its roof. There is no evidence the previous enlargement constitutes part of the "original" building as defined in the Order. Therefore, the previous enlargement must be taken into account in calculating the cubic content added by the proposal which is the subject of this appeal.
 7. As is set out in the Planning Practice Guidance¹, an application needs to describe precisely what is being applied for. Without sufficient or precise information the refusal of a certificate may be justified. This does not preclude another application being submitted later on, if more information can be produced.
 8. Both parties have provided measurements and calculations for extended parts of the roof. However, it is not clear precisely which parts of the roof the appellant's measurements relate to or how the volumes identified have been calculated. As such, based on the appellant's measurements and calculations and considering the appellant's views noted above about internal measurements, I cannot be certain the appeal proposal is permitted development.
 9. Save for a rear hip end measurement of 3.46 rather than 3.39 as shown on the drawing provided, I am satisfied the measurements and calculations provided by the Council in its statement are correct. Moreover, the means by which they have been determined is clearly shown with reference to drawings.
 10. The smaller rear hip end measurement noted above has an inconsequential effect on the overall conclusion that the resultant roof space exceeds the original roof space by more than 50 cubic metres. Consequently, based on the information provided, the appeal development is not permitted development.

Other Matters

11. The appellant has expressed a willingness to reduce the proposal and/or provide more information but indicates that they were not given these opportunities. These are not matters for me to consider in the context of this appeal under section 195 of the above Act and I have determined this appeal based on the information provided.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a loft conversion including a dormer window was well-founded and so the appeal fails. I exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

L Perkins

INSPECTOR

¹ Lawful development certificates, paragraph: 005 reference ID: 17c-005-20140306