
Appeal Decision

Site visit made on 9 June 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal Ref: APP/N4720/X/19/3243457

37 Denton Avenue, Gledhow, Leeds LS8 1LE

- 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 G Bartlett against the decision of Leeds City Council.
 - The application Ref 19/05807/CLP dated 17 September 2019 was refused by notice dated 3 December 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 a hip to gable conversion to the rear of the existing dwellinghouse.
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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 issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

3. The appellant contends that the proposal is a roof alteration and under Part 1, Schedule 2, Class B the enlargement of a dwellinghouse consisting of an addition or alteration to the roof is permitted. However, it is more than an addition or alteration to the roof of the dwellinghouse but would result in the loss of the roof form to the rear of the property and involve raising the eaves level to create a new two storey element. Consequently, the proposal is for a first floor extension rather than what is described by the appellant as a hip to gable conversion to the rear of the existing dwellinghouse.
4. As a first floor extension the proposal should be assessed under Class A of Part 1, Schedule 2 of the GPDO which relates to the enlargement, improvement or other alteration of a dwellinghouse. Such development is permitted subject to conditions, including (h) relating to the enlarged part of the dwellinghouse having more than a single storey and (i) the relationship of the enlarged part of the dwellinghouse to the boundary of the curtilage of the dwellinghouse.

5. I have noted that the Council describes the property as having a rear extension with a half catslide roof and flat roof. However, there is insufficient evidence for me to conclude that the original property has been extended to the rear. Consequently, the enlarged part would not extend beyond the rear wall of the original dwellinghouse by more than 3 metres. However, the enlarged part would have more than a single storey and be less than 7 metres away from the boundary of the curtilage opposite the rear wall of the dwellinghouse and therefore fails to meet the restrictions under (h).
6. Although I find that the enlarged part of the dwellinghouse would have an eaves height of 3 metres and be more than 2 metres from the boundaries of the curtilage shared with the highway and the adjacent residential property, due to its failure to meet the requirements set out above, the extension is not permitted development under Class A.

Conclusion

7. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 196(3) of the Act as amended.

A A Phillips

INSPECTOR