



Appeal Decision

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/M5450/X/20/3248770
92 Wemborough Road, Stanmore HA7 2EF

- 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 Mrs Hina Siddiq against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4787/19, dated 13 November 2019, was refused by notice dated 9 January 2020.
 - 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 alterations to the roof to form end gable with window in the side, rear dormer, two roof lights in front slope.
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Decision

1. The appeal is dismissed.

Procedural matters

2. For the avoidance of doubt, I should explain that the planning merits of the development are not relevant to this appeal, which relates to an application for a lawful development certificate (LDC). Upon review of the appeal and the submissions from the appellant and the Council, I took the view that a rational decision on the appeal could be reached without the need for a scheduled site visit. The parties agreed to this and I have therefore considered the appeal on this basis.
3. The header above correctly quotes the description of the proposed development set out on the application form. The decision notice issued by the Council has revised the description. However, where a LDC is sought for proposed development, under s192 of the Town and Country Planning Act 1990 as amended (the Act), such a revision can only be done with the appellant's agreement. I note that the appellants appeal form and statement reflect this revised description, but I have no evidence of an agreement to the amendment. Accordingly, I shall consider the appeal on the basis of the description on the application form.

Main Issue

4. The main issue is whether the Council's decision to refuse to issue an LDC for the application was well-founded.

Reasons

7. In an LDC appeal the onus of proof is on the appellant to show that, on the balance of probability, the development would have been lawful, at the time of the application. Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO), grants planning permission for those classes of development described as 'permitted development' (PD) in Schedule 2. Part 1 of Schedule 2 permits development within the curtilage of a dwellinghouse. Class B goes on to set out permitted development rights for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
8. It is accepted by the parties that the proposed development complies with all of the other conditions and limitations associated with Class B of the GPDO. The only point of dispute is Class B, B1(c), whether on the balance of probability, 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.
9. The dwelling forms one half of a semi-detached property. It is common ground that the elevation that faces Wemborough Road should be considered as the principal elevation for the purposes of determining whether planning permission is required for the proposed development. I have no reason to disagree with this view.
10. The dwelling is of two-storey with a two-storey rear 'outrigger', shown within the first floor bathroom on the submitted plans. There is also a single storey wrap around extension to the front and side. Front walls of the main dwelling and the outrigger, both front the highway and together they form part of the principal elevation. The main house and roof to the outrigger are both hipped in design and have existing roof planes that form part of the principal elevation and front the highway.
11. The proposed development would result in alterations to the main roof to form an end gable, with the new gable extending in front of the plane of the existing roof of the rear outrigger. Accordingly, the proposal would not comply with the limits and conditions of PD, as set out in Schedule 2 Part 1 Class B of the GPDO and planning permission would be required.

Conclusion

12. For the reasons given above, I conclude, that the Council's refusal to grant a lawful development certificate, for the proposed alterations to the roof to form end gable with window in the side, rear dormer, two roof lights in front slope, was well-founded and that the appeal should fail. I will exercise accordingly, my powers transferred to me in section 195(3) of the 1990 Act as amended.

Hilary Orr

INSPECTOR