



Appeal Decision

Site visit made on 24 July 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 24 August 2020

Appeal Ref: APP/G5750/X/19/3238509

3 Alfred Road, Stratford, London E15 1RJ

- 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 Shamim Akhtar against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/02394/CLP, dated 29 August 2019, was refused by notice dated 10 September 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 loft conversion.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development for which a LDC is sought comprises a rear dormer extension including two roof lights to the front elevation. The Council dealt with the proposal on this basis and so shall I.
3. The appellant stated in the application form that a LDC should be granted because *"the loft conversion will be permitted development; the additional volume will be less than 40m³; the new materials will be in matching with existing; the dormer will be set in by a min 200mm from the rear wall"*.
4. The Council refused the LDC application as it determined that the proposed development fails to comply with the requirements for permitted development set out in Article 3(1), Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). In particular, the Council says that *"this is due to the vertical extension of the parapet walls which cannot be considered an alteration or addition to the roof subject to Class B and the proposed extensions subsequent failure to comply with Class A by reason of the excessive eaves height"*.

Main Issue

5. The main issue in this appeal is whether the Council's refusal to grant a certificate of lawful use or development in respect of the proposed development was well-founded.

Reasons

6. Class B of the Order grants planning permission, subject to limitations and conditions, for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
7. The submitted plans show that the L-shaped dormer would be partially built upon the parapet walls of the building. The parapets walls are not part of the roof structure, but are upwards extensions of the walls of the building. Therefore, the proposed works go beyond Class B in that they are not limited to an alteration or alteration to the building's roof.
8. Accordingly, it is not relevant to the success of the appeal whether or not the aspects of the proposal cited by the appellant meet the limitations and conditions of Class B.
9. For the above reasons, Class A of the Order is relevant to the appeal proposal since it grants planning permission, subject to limitations and conditions, for the enlargement, improvement or other alteration of a dwellinghouse.
10. However, the proposal would not comply with the limitations and conditions of Class A because the height of the eaves of the enlarged part would exceed the height of the eaves of the existing dwellinghouse (A.1 (d)). Further, the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres (A.1 (i)).
11. For the above reasons, the Order does not grant planning permission for the proposed development and express planning permission would be required to make it lawful.

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 rear dormer extension including two roof lights to the front elevation 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.

Andrew Walker

INSPECTOR