The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2020

by Jean Russell MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 September 2020

Appeal Ref: APP/Q4245/X/20/3250648
65 Norwood Road, Stretford, M32 8PN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (TCPA90) as amended pursuant to an application made under s192(1)(b).
- The appeal is made by Mr & Mrs Watts against the decision of Trafford Borough Council to refuse to grant a certificate of lawful use or development (LDC).
- The application (ref: 99646/CPL/19) was dated 19 December 2019 and refused by notice dated 28 February 2020.
- The development for which an LDC is sought is the erection of a dormer window to the rear of the existing dwelling.

DECISION

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Main Issue

2. The main issue is whether the erection of a dormer window to the rear of the existing dwelling at 65 Norwood Road would have been lawful on the date of the LDC application, being 19 December 2019, on the basis that the development would have been granted planning permission by the *Town and Country Planning (General Permitted Development) (England) Order 2015* (GPDO) as then in force.

3. The onus is on the appellant to make their case on the balance of probability. Since the appeal is concerned with what is lawful, the merits of the proposed dormer are irrelevant, as is whether the Council has approved similar structures elsewhere.

Reasons

4. Article 3 and Schedule 2, Part 1, Class B of the GPDO grant planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. This 'permitted development right' is subject to limitations and conditions. There is no dispute that the proposed dormer would comply with all of the limitations set out in Part 1, paragraph B.1 to Schedule 2 of the GPDO.

5. The Council refused to grant an LDC for the proposed dormer on the basis that it would breach condition B.2(a), which is that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The Council's specific concern is that the rear-facing elevation of the dormer would 'be glazed in full with sliding windows' and so the development would not have a similar appearance to the house.

6. The Council has referred to the Government's 'Permitted Development Rights for Householders: Technical Guidance'[1] which states that condition B.2(a):

[1] September 2019

'…is intended to ensure that any addition or alteration to a roof for a loft conversion results in an appearance that minimises visual impact and is sympathetic to the existing house…So the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level. Window frames should also be similar to those in the existing house in terms of their colour and overall shape'.

7. The submitted plans 6207_P03, P04A, P05 and P06 state that the 'proposed materials will be similar in appearance to the existing dwelling'. The plans also depict visually what is confirmed by the appellant's statement of case – that the side elevations of the dormer would be clad in slate tiles to match the main roof of the house. The Council accepts the similarity of these materials.

8. The plans also show that there would be three sliding glazed panels in the rear-facing elevation of the dormer – and that the same number of sliding glazed doors are already installed at ground floor level in the main rear elevation of the house. I am satisfied that the proposed panels would be similar in size and shape to those existing. The plans state that the proposed panels and all existing rear-facing glass doors and windows would be 'aluminium framed casements in anthracite grey'.

9. One of the Council's planning officers suggested in an email to the appellant's agent on 28 November 2019 that 'the large expanse of glazing currently proposed is not in keeping with the character of the *original* property…' [my emphasis]. I realise that the officer was giving their view on the merits of the proposed dormer, since the email concerned a planning application[2]. Even so, it is worth reiterating that what condition B.2(a) requires is similarity in the appearance of the proposed materials and those used in the *existing* dwellinghouse.

10. I have had regard to all other evidence submitted and matters raised. I struggle to see any dissimilarity in the appearance of the materials to be used in the exterior of the proposed dormer and those used in the construction of the exterior of the existing dwellinghouse. As a matter of fact and degree, the window frames and tiles would be similar to those existing in terms of colour, design and overall shape.

11. It has thus been demonstrated that the proposed erection of a dormer window to the rear of the existing dwelling at 65 Norwood Road would have been permitted by the GPDO on 19 December 2019 on the balance of probability. I conclude that the Council's refusal to grant an LDC was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under s195(2) of the TCP90.

Jean Russell

INSPECTOR

[2] Planning permission (ref: 99008/HHA/19) was granted in January 2020 for the erection of a rear dormer [and other works] with a revised design (plan 6206_P06B) to overcome the Council's objections.

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Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that, on 19 December 2019, the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate would have been lawful within the meaning of s191 of the Town and Country Planning Act 1990 for the following reason: *The proposed rear dormer, shown in plans 6207_P03, P04A, P05 and P06, was granted planning permission by Article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.*

Signed

Jean Russell

INSPECTOR

Date 28 September 2020

Reference

APP/Q4245/X/20/3250648

First Schedule

The erection of a dormer window to the rear of the existing dwelling

Second Schedule

Land at 65 Norwood Road, Stretford, M32 8PN

NOTES

This certificate is issued solely for the purpose of s192 of the Town and Country Planning Act 1990. It certifies that the operation described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and was not liable to enforcement action under s172 of the TPCA90 on that date.

This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described or which relates to any other land may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in s192(4) of the TPCA90 which states that the lawfulness of a specified operation is only conclusively presumed where there has been no material change before the operation is begun in any of the matters which were relevant to the decision about lawfulness.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 28 September 2020

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Land at 65 Norwood Road, Stretford, M32 8PN

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NOT TO SCALE