
Appeal Decision

Site visit made on 8 September 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/N5660/X/19/3236799

31 Stratheleven Road, London SW2 5JS

- 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 Ken Patterson against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/01907/LDCP, dated 26 May 2019, was refused by notice dated 1 August 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.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development states that it comprises a loft conversion. However, the plans supplied with the application show the conversion of the loft including a dormer window, and an extension over the flat roof over the rear projection of the property. The dormer window and extension would have a flat roof. The Council has assessed the development on that basis and so shall I.
3. Where an LDC is sought the burden of proving relevant facts rests with the appellant and the test of the evidence is on the balance of probability.

Main Issue

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

Reasons

5. The existing dwelling is a mid-terraced property with a pitched roof. To the rear is a projection with a flat roof attached to that of the neighbouring property. The roof of the rear projection is lower than the eaves of the main roof, such that there is a small section of wall above where the rear projection is attached to the main house and below those eaves. The Council have suggested that the rear projection is original to the house such that it is not an extension. This has

not been disputed by the appellant. So, with no evidence to the contrary, I conclude that the rear projection in this case is not an extension.

6. The Council suggest that the proposal does not comply with Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). They suggest that the loft conversion and extension would extend beyond the face of the original dwelling, the eaves would not be maintained or reinstated and the volume is above that permitted.

The face of the dwelling

7. Condition B.2 (b) (ii) attached to Class B, Part 1, Schedule 2 of the GPDO states that no part of an addition or alteration to the roof may extend beyond the outside face of an external wall of the original dwellinghouse, except where it joins the original roof to that of an extension. As set out above, I consider that the rear projection is not an extension to this building.
8. In this case, the small section of wall between the flat roof of the rear projection and the eaves of the main roof is an external wall of the original dwellinghouse. The proposal would extend beyond that.
9. For this reason, on the balance of probability I conclude that the extension above the rear projection would not comply with the condition at B.2 (b) (ii), Class B, Part 1, Schedule 2 of the GPDO.

Eaves

10. Condition B.2 (b) (i) attached to Class B, Part 1, Schedule 2 of the GPDO states that the eaves of the original roof should be maintained or reinstated, other than where the enlargement joins the original roof to the roof of a rear extension. I have already concluded above that the rear projection of the property is not an extension.
11. In extending in an L shape such that the dormer would extend beyond the outside face of the external wall below the eaves, it would result in removal of part of the eaves of the existing dwelling. As such, these eaves would not be maintained or reinstated.
12. For this reason, on the balance of probability I conclude that the extension above the rear projection would not comply with the condition at B.2 (b) (i), Class B, Part 1, Schedule 2 of the GPDO.

Volume

13. Paragraph (d) (i), Class B, Part 1, Schedule 2 of the GPDO states that the cubic content of the roof space resulting from the proposed extension should not exceed the cubic content of the original roof space by more than 40 cubic metres in the case of a terrace house.
14. In this case, the elevations show the part of the extension over the rear projection at 3.3m depth and, solely assessing the proposal shown on the elevations, the Council and appellant agree that the extension would be less than 40 cubic metres. However, the floorplans show a deeper extension that would be over 40 cubic metres.

15. Taking into account all of the above, on the balance of probability I have taken into account the floor plans as the correct drawings. Therefore, the development would be over 40 cubic metres such that it would not comply with Paragraph (d) (i), Class B, Part 1, Schedule 2 of the GPDO.

Conclusion

16. 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 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.

AJ Steen

INSPECTOR