



Appeal Decision

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/P2114/X/20/3250494

Shishford Cottage, Calbourne Lane, Newbridge PO41 0TZ

- 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 Mark Shotter against the decision of Isle of Wight Council.
 - The application Ref 20/00198/CLPUD, dated 31 January 2020, was refused by notice dated 6 April 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: New roof to replace existing water reed thatch with clay plain tiles on main roof.
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Summary of Decision

1. The appeal is dismissed.

Preliminary Matter

2. Neither party considered that a site visit was necessary for the purposes of my assessment. I do consider that injustice to the parties would arise from determining the appeal on the basis of the written evidence before me, given the appeal concerns lawfulness and the evidential onus rests with the appellant.

Main Issue

3. The main issue is whether the proposed replacement roof would be permitted development.

Reasons

4. In cases such as this the onus is on the appellant to demonstrate, on the balance of probabilities, that the proposal would be permitted development.
5. The appeal property consists of a thatched dwelling with lean-to additions to the side and rear, which are tiled. I have no evidence before me that the dwelling is a listed building or situated on protected land¹.
6. There is no dispute between the parties that the proposal, which amounts to a complete new roof superstructure and replacement of a water reed thatched roof with a plain clay tile roof, to the main roof of the dwelling, would be

¹ For example, Article 2(3) land as specified in the GPDO

development for the purposes of Section 55 of the Act. It also follows that the proposed development would materially affect the external appearance of the building.

7. The Council had determined the appeal application against Schedule 2, Part 1, Class B of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO). It has found the proposal would not be permitted development under Class B. The appellant does not dispute this.
8. Rather, as the proposal does not amount to an enlargement of the dwellinghouse consisting of an addition or alteration of its roof, because tiles result in a reduction in the thickness of the finished roof, in comparison to thatch, the appellant contends that the appeal application should have been considered against Class C of the GPDO.
9. I accept that the proposal should also be considered against Class C of the GPDO, which is namely to say: '*Any other alteration to the roof of a dwellinghouse.*'. Furthermore, just because the proposal contravenes one Class of the GPDO, does not mean that it cannot be considered against another.
10. The proposed elevations demonstrate on the balance of probabilities that the finished ridge and eaves height would be no higher than the original thatched roof, and the roof pitch would be the same. The proposal also does not relate to the installation of a chimney or flue, or solar thermal equipment. Neither does it relate to any windows. That the change to tiles would materially affect the external appearance of the building is not a relevant consideration for the purposes of my assessment in this regard.
11. However, and as confirmed by the appellant, the proposal necessitates a complete new roof superstructure, and this appears to me to be an integral structural part of the proposal in order to facilitate the change to a tiled roof, as opposed merely being internal works. The appellant later states the replacement works would relate to approximately 50% of the total roof area of the original house, although there is little evidence to demonstrate this quantification on the balance of probabilities, which casts doubt in my mind.
12. Class C of the GPDO is restricted to an alteration/s to the roof a dwellinghouse. However, the proposal amounts to a new roof, or substantive new roof, to the main part of the dwelling, as opposed simply just an alteration to it. This accordingly casts significant doubt in my mind that the proposal would be permitted development for the purposes of Class C of the GPDO.
13. Moreover, as can be seen in the Government's technical guidance² concerning permitted development rights, alterations under Class C of the GPDO would, for example, cover the installation of roof lights/windows. This adds further weight against the proposal being permitted development, given the apparent scope of Class C of the GPDO, when compared against the quantum of development proposed.
14. The appellant also asserts that the roof superstructure could be replaced, and the thatch reinstated without the need for planning permission. The thatch could then be replaced with a different roof covering, and the outcome would remain the same as that proposed. But even if that were correct, that is not

² MHCLG, Permitted development rights for householders, Technical Guidance, September 2019

the proposal before me, and this assertion has no bearing on whether what is actually proposed would be permitted development.

15. The appellant has not brought to my attention relevant case law or authorities in support of his contention. He has therefore not discharged the necessary burden of proof that the proposal would be permitted development.

Conclusion

16. For the reasons given above I conclude that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

17. The appeal is dismissed.

Paul T Hocking

INSPECTOR