



Appeal Decision

Site visit made on 13 October 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020

Appeal Ref: APP/L5810/X/20/3249924
282 Staines Road, Twickenham TW2 5AS

- 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 S Chowdhry against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 20/0002/PS192, dated 31 December 2019, was refused by notice dated 26 February 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 described on the application form as "construction of loft development".

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. The description in the banner heading of the proposed works for which an LDC is sought is taken from the application form. The Council's decision notice refers to "hip to gable and rear dormer roof extensions". As this is a more accurate description, I shall deal with the appeal on that basis.

Main Issue

2. The main issue in this appeal is whether it has been shown that the proposal would be granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Article 3, Schedule 2, Part 1 Class A.

Reasons

3. The onus is on the appellant to show that an LDC should be granted for the proposal, the relevant test of the evidence being on the balance of probability.
4. The appeal property contains a semi-detached dwelling of bay-fronted design, with a hipped roof form. There is a two storey extension at the side of the dwelling, which also projects beyond and partly wraps around the rear elevation. The existing extension has a flat roof with front and rear parapet walls. It is proposed to extend the original roof of the dwelling to form a gabled roof at the side, together with a dormer in the rear roof slope and three roof lights in the front roof slope.
5. The GPDO at Part 1 Class B grants planning permission for an addition or alteration to the roof of a dwelling. The proposal would not exceed any of the

relevant limitations in terms of its height, location and cubic capacity, set out in Class B at paragraph B.1. Also, the proposal would not breach any of the conditions in paragraph B.2. The GPDO at Part 1 Class C grants planning permission for any other alteration to the roof of a dwelling. The proposal would not exceed any of the relevant limitations in paragraph C.1 or the conditions in paragraph C.2. As a result, the limitations and conditions of both Class B and Class C of Part 1 would be met. The Council did not seek to argue otherwise and I have found no reason to disagree with their assessment.

6. Nevertheless, in order to be granted planning permission by the GPDO the proposal must comply with the limitations and conditions of all Classes in Part 1 relevant to the works involved. The proposed works would be immediately adjacent to the existing extension and from the submitted drawings, are likely to be physically attached to it. Moreover, as the submitted drawings are not consistent, the roof plans of the dwelling not corresponding with the elevations, the extent of the works involved in the proposal in relation to the existing extension cannot be accurately determined. In particular, the extent of any attachment to the existing extension is unclear, as is the extent of any alteration to the front parapet wall or whether enlargement of the existing extension would also be involved. As a result, based on the evidence before me I am not persuaded that the proposal solely relates to altering or adding to the roof of the dwelling and that there would be no joining onto and alteration or enlargement of the existing extension. Accordingly, the proposal also falls to be assessed against Class A of Part 1, which grants planning permission for the enlargement, improvement or other alteration of a dwelling, subject to the limitations and conditions in paragraphs A.1 to A.4.
7. Paragraph A.1 (ja) provides that development is not permitted by Class A where any total enlargement (being the enlarged part together with any existing enlargement of the dwelling to which it will be joined) exceeds or would exceed the limits set out in paragraph A.1 (e) to (j). The meaning and effect of "exceeds or would exceed" in this context is that by joining, altering or adding to an existing extension which already exceeds the limits in paragraph A.1 (e) to (j), the proposal would also not meet those limits and would therefore not be permitted by Class A. There is nothing before me to suggest a different interpretation. When taken together with the existing extension, the proposal would exceed the limitation at paragraph A.1 (i); the existing extension is within two metres of the curtilage boundary and in excess of three metres in height. Also, with the existing extension the proposal would exceed the limitation at paragraph A.1 (j) (i) and (ii), being in excess of four metres in height and having more than one storey. In any event, as the eaves height of the proposed rear dormer would be above that of the dwelling, the limitation at paragraph A.1 (d) would be exceeded. As a result, whilst the other limitations in paragraph A.1 together with the conditions in paragraph A.2 to A.4 would be met or are not applicable, the proposal cannot be permitted by Class A and express planning permission is required.
8. Therefore, based on the evidence before me and on the balance of probability the appellant has failed to show that the proposal would be granted planning permission by the GPDO Article 3, Schedule 2, Part 1 at Class A and it is not lawful for planning purposes.

Conclusion

9. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of hip to gable and rear dormer roof extensions was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me under section 195 (3) of the 1990 Act as amended.

Formal Decision

10. The appeal is dismissed.

Stephen Hawkins

INSPECTOR

