



Appeal Decision

Site visit made on 20 October 2020

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/Z1510/X/20/3257337

144 Tidings Hill, Halstead CO9 1BQ

- 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 Darren Atkinson against the decision of Braintree District Council.
 - The application Ref 20/00916/PLD, dated 10 June 2020, was refused by notice dated 27 July 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 the construction of a loft extension.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, I should explain that in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended - which relates to an application for a lawful development certificate (LDC) - the planning merits of the proposed development are not relevant, and they are not therefore an issue for me to consider. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

Reasons

3. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the loft extension should be regarded as development permitted under the provisions of Class B of Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) - in particular paragraph B.1(c) of that Class. In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
4. Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Various preclusions are set out in paragraph B.1, including at B.1(c), which states that development is not permitted if any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

5. The appeal property stands at the southern end of a short terrace of two-storey houses¹ on the western side of Tidings Hill and is at the corner of Tidings Hill and White Horse Avenue. There is another slightly longer, but otherwise very similar terrace² extending from the southern corner with White Horse Avenue, which forms a more or less symmetrical arrangement to either side of the Avenue.
6. The appeal proposal is to construct a roof extension with a box dormer on the western side of the roof. The pitched roof on the southern elevation facing White Horse Avenue would become a gable end and would therefore extend beyond the plane of that roof slope. I note that the southern flank of the box dormer appears to be flush with the face of the gable end but would possibly have different facing materials.
7. Government guidance in the document 'Permitted development rights for householders - Technical Guidance' of April 2017 defines '*Principal elevation*' thus:
'in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house'; and,
'There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation'.
8. At first sight the fronts of the houses in both terraces face onto Tidings Hill. However, on inspection it is readily seen that in the case of no. 144 the entrance gate, path and front door are on the White Horse Avenue elevation. This elevation has the front door, a projecting porch roof, contrasting coloured tiles to either side of the door, and three symmetrically placed first floor windows above - again with contrasting coloured tiles. Furthermore, the existing gable of no.144 faces onto Tidings Hill and the pitched roof faces the Avenue. This is quite unlike the situation for the other three houses in the terrace, where the front doors, porch roofs, entrance gates and pathways, and the pitched roofs are oriented towards Tidings Hill.
9. It is apparent to me that the architectural intention was for this end house of the terrace to 'turn the corner' to address White Horse Avenue, and this has been achieved by means of organising the main architectural features on this elevation.
10. I appreciate that the postcode indicates an address on Tidings Hill, and of the two roads that would normally be regarded as the main highway. However, given the main architectural features and organisation I have described I am of the view that as a matter of fact and degree the principal elevation – and front – of no. 144 faces towards White Horse Avenue.

¹ Nos. 138 to 144 Tidings Hill.

² Nos. 146 to 154 Tidings Hill.

11. There are various conditions to be imposed on development permitted under Class B that are set out under GPDO paragraph B.2. These principally concern proposed constructional materials, detailed construction of the enlargement and the nature of windows on side elevations. However, I have found that this proposal does not benefit from permitted development rights, so these conditions do not come into play.
12. I conclude that on the balance of probabilities the loft extension should not be regarded as development permitted under the provisions of Class B of Part 1 to Schedule 2 the GPDO – in particular paragraph B.1(c) of that Class. It follows that the Council's decision was well-founded.

Conclusions

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a loft extension at no. 144 Tidings Hill, Halstead CO9 1BQ 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.

Stephen Brown

INSPECTOR