



Appeal Decision

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/W5780/X/20/3255881

7 Meriden Close, Barkingside, Ilford, Essex IG6 2HX

- 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 Mayooraan Thuraiarah against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 1564/20, dated 30 May 2020, was refused by notice dated 8 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 described as "3m Single storey rear extension, Single storey side extension (Converting the garage into habitable place), Loft conversion with rear Dormer & Front Porch."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I considered that a decision could be made on this proposal for an LDC based upon the submitted documents and plans, without the need to visit the appeal site. This followed consultation with the parties about this matter.

Main Issue

3. The main issue in both appeals is whether the Council's decision that the proposals would not be permitted by Article 3, Schedule 2, Part 1, Classes A, B and D of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO), was well founded. The onus is upon the appellant to demonstrate their case. Planning merits are not of relevance as the appeals will turn on matters of law.

Reasons

4. The dwellinghouse is bungalow within a terrace. Looking first at the additions to the roof of the building, a rear dormer and hip-to-gable are proposed. Class B allows for the cubic content of the original roof space to be increased in such situations by up to 40m³. The submitted plans are presented at a scale of 1:100 and although there is a scale bar, precise measurements of the proposals have not been provided to me.

5. The Council has set out their calculations and the appellant has not disputed them. Those calculations appear very approximately correct although with the lack of detail provided, this is subject to a significant margin of error in my view. I found the volume of the dormer to be very close to the 40m³. However, the "hip to gable" increase in my view also needs to be added to the volume increase even though the Council does not appear to have done so. This clearly takes the proposal beyond the 40m³ limitation within paragraph B.1.(d)(i).
6. Furthermore, the plans appear to contradict each other. Although the side elevation is annotated that the "dormer wall should be min 200mm set back from the eave along the slope", that degree of set-back is not clearly shown on the floor plans or the roof plan. There is a significant margin of error with respect to the measurements of the enlargement and the appellant has not clearly demonstrated that the dormer would be permitted development in this or other respects.
7. The extensions at ground floor level are not clearly severable from the roof enlargement and as such, the development as a whole cannot be considered as permitted development. However, the Council has gone on to consider each part separately, I will also look at those individual parts.
8. Class A is relevant to the consideration of the enlargement, improvement or other alteration of the dwellinghouse. The existing rear extension, as shown on the submitted photographs and existing elevation drawings, has a gently sloping mono-pitched roof that is above the height of the eaves of the existing dwellinghouse. The proposed rear and side extensions would be at a similar height. Even though the rearward part of the development would only be 3m deep and the side extension would not extend beyond the rear wall, both would exceed the limitation in paragraph A.1.(d) and would not be permitted development.
9. Lastly, a porch is proposed for the front of the dwellinghouse. The permitted development for porches is contained within Class D. The ground area of the proposed porch would be only 2.4m², less than the 3m² limitation in paragraph D.1.(b). However, the plans show the height to the top of the gable on the porch would be 3.3m, higher than 3m above ground level. This would not therefore comply with paragraph D.1.(c). Again, this when taken alone would not constitute permitted development.

Conclusion

10. 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 "3m Single storey rear extension, Single storey side extension (Converting the garage into habitable place), Loft conversion with rear Dormer & Front Porch.", 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.

A Harwood
INSPECTOR