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# Appeal Decision

**by D Fleming BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 January 2021**

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**Appeal Ref: APP/G5750/X/20/3258583**

**9 Sprowston Road, Forest Gate, London E7 9AD**

- 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 Maqbool Khan against the decision of the Council of the London Borough of Newham.
  - The application, Ref 20/01235/CLP, dated 17 June 2020, was refused by notice dated 11 August 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 a loft conversion with rear dormers.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. It has not been necessary to carry out a site visit as, in this particular case, where all the information needed is included with the application and appeal documents, a decision can be reached on the papers.
3. The Procedural Guide - Certificate of lawful use or development appeals – England, dated November 2020, states at paragraph A.9.4. “Where the appeal concerns a case, which will be decided purely on the basis of technical and/or legal interpretation of the facts, the Inspector may decide the case without a site visit.” In addition, Footnote 12 within Appendix F states that a small number of appeals do not require a site visit and can be dealt with on the basis of the appeal documents.

## Main Issue

4. The main issue is whether the Council’s decision to refuse to grant a certificate of lawful use or development was well-founded.

## Reasons

5. The appeal relates to a detached, two storey house with a two storey, half width, rear projection. This has a mono pitch roof springing from a flank parapet wall. The parapet wall joins the flank parapet wall on the main roof. The appellant proposes to build two dormer extensions that would be joined at the intersection of the mono pitch roof with the main roof. The smaller dormer would be set well down from the main roof ridge and would be set back from

the eaves. It would provide headroom over an existing loft staircase and therefore would only extend part way across the main roof. The larger dormer would extend over approximately two thirds of the mono pitch roof to provide an additional room. It would be set back from the eaves with a window within the end elevation. Both dormers would be built on the parapet walls.

6. The Council advise that there are no Article 4 Directions removing permitted development (PD) rights and neither party advises that the site is in a conservation area.
7. The principle point at issue is the Council's determination that the construction of the dormers is not limited to an alteration or addition to the roof but includes extending the parapet walls. The Council take the view that the parapet walls are not part of the roof structure. The parties agree that the proposed dormers would not contravene any of the specific requirements set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, (the GPDO), Schedule 2, Part 1, Class B.1.(a)- (h) and I see no reason to take a different view.
8. The appellant accepts that the design of his proposal, which would extend the dormers over the parapet walls, was a mistake and submits that the Council should have given him an opportunity to rectify the matter. I am unable to comment on the Council's actions during the processing of the application and there are other routes open to the appellant should he wish to pursue the matter further. However, I note that following the submission of the appeal, the appellant received an LDC for a similar roof extension which did not involve extending over the parapet walls.
9. In order to benefit from the PD rights set out in Class B, any roof extension needs to be positioned within the roof structure of the dwelling. It is considered that the parapet walls are not part of the roof structure as they are upward extensions of the external walls of the building. The appellant's proposal would involve extending the parapet walls upwards even further and as they are not part of the roof structure, the dormer would fall outside the scope of Class B, which is confined to additions or alterations to the roof.
10. The Council considered the proposal against the provisions of Class A, which deals with the enlargement, improvement or other alteration of a dwelling. This is because the design of some loft conversion works falls to be considered under Classes A and B following the changes made to the GPDO some years ago. I find, as the Council did, that the proposal would not meet any of the relevant requirements of Class A due to the proposed height of the eaves and the siting of the extension within 2m of the boundaries of the property.
11. To summarise, whilst the proposed dormers would accord with the majority of the limitations set out in Class B of the GPDO, the proposed extension would not be constructed entirely within the roof area. Overall, therefore, the proposed extension would not benefit from the PD set out in Schedule 2, Part 1, Class B of the GPDO.

## **Conclusion**

12. 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 with rear dormers 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.

*D Fleming*

INSPECTOR