



Appeal Decision

Site visit made on 9 March 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2021

Appeal Ref: APP/L5810/X/20/3262479

29 Carlton Road, East Sheen, London SW14 7RJ

- 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 James McNaught against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/2338/PS192, dated 18 August 2020, was refused by notice dated 20 October 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:
Hip to gable rear dormer roof extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development includes at least one rooflight. The Council dealt with the proposal on this basis and so have I.
3. At my site visit it was apparent that development of the appeal property was underway.

Main Issue

4. The main issue is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

5. The main dispute between the parties is whether the materials to be used for the windows and cladding of a proposed rear dormer roof extension are of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
6. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of development, subject to conditions and limitations. Schedule 2, Part 1, Class B of the Order grants permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

7. Schedule 2, Part 1, Class C of the Order grants permission for any other alteration to the roof of a dwellinghouse. This generally includes rooflights. I note the Council raises no objection to the proposal in this respect and I see no reason to either, noting that there is no evidence the proposal would not comply with the relevant conditions and limitations under Class C.
8. Class B is subject to Condition B.2.(a) which states that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
9. Technical Guidance¹ exists which is an aid to interpretation and application of the Order. This Technical Guidance is directly referred to in the Council's evidence and so I have had regard to it also. In respect of Condition B.2.(a) the Technical Guidance says:

"the face and sides of a dormer window should be finished using materials that give a similar visual appearance to the existing house. So the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level. Window frames should also be similar to those in the existing house in terms of their colour and overall shape."
10. The appellant proposes black brick slips for the front and cheeks of the dormer and black aluminium for the window frames.
11. Based on the information provided, there is no evidence which satisfies me that black brick slips would appear to be of a similar colour and design to the materials used in the main roof of the house when viewed from ground level. In particular, the presence of a mortar joint (of any colour) between the slips, as shown on the rear elevation drawing, would give the appearance of a brick finish rather than the grey/black slate finish which currently exists on the main roof of the appeal property.
12. Also based on the information provided, the proposed black aluminium frames for the dormer's windows would not appear similar to any of those in the existing house in terms of their colour and overall shape, noting in particular that the appellant's evidence indicates the existing windows were white painted timber.
13. I note the appellant's view that Condition B.2.(a) contains no mention of windows. But it clearly applies to windows as is evidenced from the wording of the aforementioned Technical Guidance. I realise the colour of the proposed window frames may have been chosen because of the colour of the roof. But this is not the test of the Order and does not reflect the Technical Guidance either so I cannot take the reason for the choice of colour into account in deciding whether the appeal development is lawful or not.
14. The appellant has drawn my attention to other LDC applications dealt with by the Council, stating that those applications proposed materials that do not match the existing and so must be deemed 'similar' materials given the applications were granted. I have considered the information provided about these other applications and note that some of them pre-date the current

¹ Ministry of Housing, Communities & Local Government, Permitted development rights for householders – Technical Guidance, 10 September 2019

version of the Order and Technical Guidance, both of which have changed over time.

15. Nevertheless, I accept some of those other decisions appear to be at odds with the current requirement for materials used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. However, whilst drawings have been provided, I do not have full details of those other cases or how they were decided. In any event, I must determine the appeal before me on its own facts and with full regard to the wording of the Order and associated Technical Guidance in place at the time the application was made.
16. The statement provided by the Council indicates its position on the brick slips may have changed since it issued its decision. But even if this is the case, it makes no difference to my overall conclusion because of my findings in respect of the proposed windows.

Conclusion

17. 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 hip to gable rear dormer roof extension was well-founded and that the appeal fails. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

L Perkins

INSPECTOR