
Appeal Decision

Site visit made on 15 May 2021

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 June 2021

Appeal Ref: APP/V0728/X/20/3265829

6 Swallow Close, Guisborough, Yorkshire TS14 8HL

- 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 Brendan Mays against the decision of Redcar & Cleveland Borough Council.
 - The application Ref R/2020/0484/CL, dated 28 August 2020, was refused by notice dated 28 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 dormer to south elevation.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

3. The appeal site is a single storey house located amongst similar dwellings in a predominantly residential area. Planning permission (ref: R/2020/0212/FF) has previously been granted for a new dormer window on the north roof slope of the property. It is now proposed to construct a dormer window on the southern roof slope.
4. Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to a number of limitations. Of these, 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 Council refused the LDC on the basis that they consider the southern elevation to be the principal elevation of the house. As this elevation faces the Swallow Close highway, they conclude that the proposed dormer window on the south roof slope would not fall within the permitted development limits.

6. The 'Permitted development rights for householders - Technical Guidance'¹ document provides some interpretation of the term 'principal elevation.' It states that, 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.
7. Bearing in mind the wording of the technical guidance, it falls to me to take a view as to which of the two facades forms the principal elevation. The south elevation represents the main entrance to the house in terms of vehicle and pedestrian access from the public highway, and Swallow Close provides the address and postcode for the property.
8. Architecturally, the two elevations are fairly similar, each containing two windows of a simple design that are set close under the eaves. However, differences start to appear between the treatment of the doorways.
9. The south doorway is set back from the south façade and is accessed by a narrow walkway along the side of the house. Although I did not enter the property on my visit, I see from the ground floor plan that this walkway contains two inspection chambers. These attributes give this entrance more of a functional feel. By contrast, the north doorway sits in line with the northern façade of the house, giving it greater visual prominence and presence in the street scene. This position makes it appear more convincingly as the main entrance to the house, rather than the southern door. I note also that the north door is the location of the letterbox for the house.
10. The space to the north of No 6 is pleasantly landscaped with attractive mature tree and footpaths running through an area of greenery. I saw also that the plots to the north of the appeal site and its immediate neighbours appear to be the main garden areas for the properties. Finally, the lounge, which is the principal living area in the house, faces over the garden and the landscaped area. To my mind, this underlines that the intention was to have the north elevation of the buildings as the public front facade, with the south facade as the more workaday entrance.
11. These observations tie in with the appellant's explanation of how the dwellings were designed to be 'back to front' in the 1970s. Whilst less common, it is by no means unusual for the principal elevations of houses to face away from access roads due to site specific factors. Drawing all the above elements together, I am satisfied that the north elevation of No 6 is and was intended to be its front façade.
12. I therefore find that, although it faces a public highway, the south elevation of No 6 is not its principal elevation for planning purposes. That being the case, the proposed dormer on the south roof slope falls within the limitations and is permitted development.

¹ Ministry of Housing, Communities and Local Government, September 2019

Conclusion

13. For the reasons above, I conclude on the evidence available that the Council's refusal to grant an LDC in respect of the proposed dormer to the south elevation was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Elaine Gray

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 28 August 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The works would have been permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Elaine Gray

Inspector

Date: 02 June 2021

Reference: APP/V0728/X/20/3265829

First Schedule

Dormer to south elevation

Second Schedule

Land at 6 Swallow Close, Guisborough, Yorkshire TS14 8HL

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 02 June 2021

by **Elaine Gray MA(Hons) MSc IHBC**

Land at: 6 Swallow Close, Guisborough, Yorkshire TS14 8HL

Reference: APP/V0728/X/20/3265829

Scale: Not to scale

