



Appeal Decision

Site visit made on 8 September 2021

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30TH SEPTEMBER 2021

Appeal Ref: APP/R5510/X/20/3264053

27 Eleanor Grove, Ickenham UB10 8BJ

- 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 Ms Aliza Adamji against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 5900/APP/2020/2570, dated 16 August 2020, was refused by notice dated 16 September 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 single storey side extension and conversion of garage/carport to habitable use.

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. Whether an LDC should be issued is strictly a matter of fact and law. Therefore, the planning merits of the proposal are not before me.

Main Issue

2. The main issue in this appeal is whether it has been shown that the proposal is granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Article 3, Schedule 2, Part 1, Class A.

Reasons

3. It is for the appellant to show that an LDC should be issued in respect of the proposal, the relevant test of the evidence being on the balance of probability.
4. The appeal site contains a link-detached chalet style dwelling. The dwelling is located on a planned residential estate which probably originated during the 1960s. An open-sided, flat roof carport is at the side of the dwelling, set back behind the front elevation. Immediately behind the carport is a single garage, also with a flat roof. A pedestrian walkway runs between the side of the dwelling and the garage. The walkway is gated at both ends and is roofed over with translucent sheeting.
5. The proposal entails converting the garage and extending at the side of the dwelling towards the front elevation, to provide additional habitable accommodation. The GPDO at Article 3, Schedule 2, Part 1, Class A grants planning permission for the enlargement, improvement or other alteration of a

dwelling, subject to the relevant limitations and conditions in paragraphs A.1 to A.4 being met. There was no dispute that the proposal would meet the relevant limitations at paragraph A.1 (b)-(j) (ii) and that the relevant condition in paragraph A.3 (a) would be complied with. I find no sound reason to conclude otherwise.

6. The effect of the limitation at paragraph A.1 (j) (iii) is that where, as in this case, the extension would protrude beyond a wall forming a side elevation, its width must be no greater than half the width of the original dwelling. It is the appellant's case that the garage forms part of the original dwelling and should therefore be taken into account when assessing whether the above limitation is met.
7. The roof of the garage is attached to the carport, which in turn is attached to the dwelling. This means that the roof of the garage and carport and the associated rainwater goods are contiguous with the dwelling. However, it is unclear whether the carport was erected as part of the original dwelling. For example, no copies of any historic plans for development of the estate or contemporaneous photographic images showing the dwelling and carport together were provided. The copy of the Title Plan supplied with the application clearly shows a gap equivalent to the walkway between the dwelling footprint and that of the garage but does not show the carport footprint. The more recent extract from the Land Registry Office Copy supplied with the appeal shows the dwelling with an expanded footprint, including the carport and walkway.
8. The above plans do not show that the carport was erected at the same time as the dwelling. The differences in appearance between carports attached to similar dwellings in the locality and the absence of any carport in some cases, adds to the doubt over whether such structures originated contemporaneously with the dwellings. Therefore, in the absence of clear and compelling evidence to show otherwise, I cannot reasonably be assured that the carport is other than a later addition to the dwelling. It follows that the carport cannot be regarded as a significant factor in terms of assessing whether the dwelling and garage originated as one building.
9. The garage walls are constructed of external masonry. The walkway physically separates an external side wall of the garage from an external side wall of the dwelling. The use of external finishes on the opposing walls is an indication that the dwelling and garage did not necessarily originate as the same building. It is highly likely that the walkway has always been gated, at least at the front. Even so, in my view the gates, their associated frames and upstand provide limited physical attachment between the dwelling and the garage. Similarly, any ground level or below ground structure is unlikely to create a significant physical link between the dwelling and garage, whilst the walkway cover is clearly a later addition.
10. Based on the available evidence, it is therefore likely that the garage was physically substantially separate from the dwelling at the time both structures originated. Furthermore, in visual terms it is likely that the dwelling and garage would have been viewed as two closely related but essentially separate buildings. Consequently, as a matter of fact and degree at the time the dwelling originated it is likely that in both a physical and visual sense, the garage was a separate building. Whilst use of the garage is clearly functionally

related to the dwelling, I do not regard that as a significant factor. It is not uncommon for a use for purposes incidental or secondary to the use of a dwelling to be in a separate building.

11. Given all the above factors, I am not persuaded that the garage is part of the original dwelling. As the proposal would therefore exceed the width of the original dwelling, the limitation at paragraph A.1 (j) (iii) is not met and planning permission is not granted by the GPDO at Part 1, Class A.
12. I was provided with a copy of an LDC appeal decision¹ at another location, but no further details were given. Moreover, the circumstances in that case differ significantly from those in this appeal as evidence was put before the Inspector which clearly showed the garage to be part of the original dwelling. Therefore, that decision does not provide any significant weight to the appellant's case.
13. Consequently, the appellant has not shown to the required standard that the proposal is permitted by the GPDO at Part 1, Class A. It follows that in the absence of a grant of express planning permission, the proposal would not be lawful for planning purposes.
14. Even if a Council officer had encouraged submission of the application, as the appellant claimed, it would be wrong to grant an LDC where the evidence suggests that the proposal is not lawful. It remains open to the appellant to apply for express planning permission for the proposal, any decision on which, initially at least, would rest with the Council.

Conclusion

15. 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 single storey side extension and conversion of garage/carport to habitable use 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.

Formal Decision

16. The appeal is dismissed.

Stephen Hawkins

INSPECTOR

¹ Appeal Ref: APP/Q1445/X/16/3165939.