

Appeal Decisions

Site visit made on 13 October 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 26 October 2021

Appeal A: Ref APP/L5810/X/20/3254696

3 Ashdale Close, Twickenham TW2 7BE

- 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 N Briam against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/0879/PS192, dated 25 March 2020, was refused by notice dated 8 June 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 set back the dormer to rear roofslope.
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Appeal B: Ref APP/L5810/X/20/3258685

3 Ashdale Close, Twickenham TW2 7BE

- 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 Briam against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/1799/PS192, dated 30 June 2020, was refused by notice dated 20 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 loft conversion.
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Appeal C: Ref APP/L5810/X/20/3262467

3 Ashdale Close, Twickenham TW2 7BE

- 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 Briam against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/2449/PS192, dated 2 September 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 alteration to existing loft.
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Appeal D: Ref APP/L5810/X/20/3266215

3 Ashdale Close, Twickenham TW2 7BE

- 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 Briam against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/3106/PS192 , dated 3 November 2020, was refused by notice dated 31 December 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 loft conversion.
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Appeal E: Ref APP/L5810/X/20/3266216

3 Ashdale Close, Twickenham TW2 7BE

- 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 Briam against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/3124/PS192, dated 4 November 2020, was refused by notice dated 31 December 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 loft conversion.
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Decisions

1. Appeals A, B, C, D and E are dismissed.

Procedural Matters

2. An enforcement notice was issued by the Council on 11 March 2019 alleging the unauthorised construction of a rear dormer extension at the property. The appellant appealed against that notice, but was successful only on the ground (g) that the time given for compliance fell short of what should be reasonably allowed.
3. The notice required either the return of the property to its condition before the breach of planning control (and removal of resultant materials, rubble and debris) or the alteration of the extension to comply with the Schedule 2 Part 1 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. The appellant has submitted LDC applications to ascertain whether proposed building works, pursuant to compliance with the notice, would be lawful under the GPDO. The applications do not challenge the validity of the notice.

Main Issues

5. The main issue in respect of each appeal is whether or not the Council's refusal to issue a LDC was well-founded.

Reasons

6. The Council refused all the applications in the appeals before me for the same reason, namely that each proposal failed to comply with the Condition of the GPDO that the enlargement of a house consisting of an addition or alteration to its roof shall be constructed so that the eaves of the original roof are maintained and reinstated¹. This Condition applies in cases of development other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension. The appellant has not claimed that either of these exceptions apply, and I have no reason from the papers to find that they do.
7. The Council says that the original eaves to the rear elevation were similar to those of the current front elevation. The appellant has not provided evidence indicating differently. Indeed, he has provided photographs² which appear to confirm similarity in the original eaves design between the front and rear of the property.
8. Notwithstanding this, and despite otherwise what may have been the intention of the appellant, the drawings in support of each application fail to show a proposed rear elevation with rear eaves reinstated as per the original roof.
9. For instance, in each "Proposed Rear View" drawing, the roof is shown descending to a lower eaves level on the extreme left of the drawing than appears to be the original situation in fact based on the evidence before me.

Conclusions

10. For the reasons given above, I conclude that the Council's refusals to grant LDCs in respect of the proposed developments subject to Appeals A, B, C, D and E were well-founded and that the appeals should fail. In each appeal I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR

¹ Schedule 2, Part 1, Class B, B.2(b)(i)(aa)

² Letter to the Planning Inspectorate dated 8 January 2021, page 4