
Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 November 2021

Appeal Ref: APP/L5810/X/21/3273360

31 Chestnut Road, Twickenham TW2 5QZ

- 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 S Greenaway against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 21/0696/PS192, dated 25 February 2021, was refused by notice dated 15 April 2021.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which an LDC is sought is 'Rear extension of the existing loft conversion over the existing first floor rear extension to form an 'L' shaped dormer'.
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Decision

1. The appeal is dismissed.

Reasons

2. 31 Chestnut Road is a two storey terraced dwelling that is about 3.4 metres wide. The attic has been converted and extended by the addition of a full width dormer, and the dwelling has been extended at the rear, pursuant to the grant of planning permission 16/2763/HOT, by the addition of a full width ground floor kitchen and a first floor bedroom that is about 2.4 metres wide. The proposed development would be the extension of the existing flat roofed dormer over the existing first floor bedroom to form a flat roofed L shaped dormer
3. The main issue is whether the proposed development would be development permitted by Class B of Schedule 2 of Part 1 of The Town and Country Planning (General Permitted Development) Order 2015 as amended (the 2015 GPDO).
4. The Council accepts that the proposed development would satisfy the volume and other limitations of Class B. However, they maintain that the development would not be development because it would not comply with a condition of Class B. The relevant condition is at B.2(b)(ii) where it is stated that "other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, enlargement extends beyond the outside face of any external wall of the original dwellinghouse".
5. The proposed enlargement would extend beyond the outside face of the rear wall of the original dwellinghouse but it is the first part of the condition that the Appellant relies on. The enlargement would be above 'a rear or side extension' and the condition does not distinguish between original or later extensions. The Appellant maintains, despite the development being described as an extension of

the existing loft conversion, that “The roof of the existing dormer will be removed and the proposed loft conversion/extension (to be re-built) will join the original roof of the house” and, by implication, that the whole condition is satisfied.

6. However, the original roof of the house, at the rear, no longer exists because it was removed when the full width dormer was constructed. Removing the roof of the existing dormer would not return the roof to an original condition and, in any event, the original roof of the house, even if the whole of the full width dormer was to be removed and re-built, cannot be reinstated. So the proposed development would not be an enlargement which joins the original roof to the roof of a rear extension and it would not therefore satisfy the condition at B.2(b)(ii). The proposed enlargement of the dwellinghouse would not be development permitted under Class B of Schedule 2 of Part 1 of the 2015 GPDO.

7. The proposed rear extension of the existing loft conversion would not be development permitted under Class B of Schedule 2 of Part 1 of the 2015 GPDO. On the evidence now available the Council’s refusal to grant an LDC in respect of proposed rear extension of the existing loft conversion over the existing first floor rear extension to form an ‘L’ shaped dormer at 31 Chestnut Road, Twickenham was well-founded and the appeal fails. The powers transferred in section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector