



Appeal Decision

Site visit made on 8 December 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2022

Appeal Ref: APP/T5150/X/20/3263218

7 Carlyon Road, Wembley HA0 1HP

- 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 Long Gao against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/0527, dated 5 February 2020, was refused by notice dated 24 April 2020.
 - The application was made under section 191(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 described as 'retrospective certificate of lawfulness application for the alteration of roof to gable end, construction of rear facing dormer window and installation of two rooflights to front roof slope of the dwellinghouse'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section 191(2) of the 1990 Act states that uses are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
3. Where an LDC is sought, the onus of proof is on the appellant and the standard is the balance of probabilities.

Main Issue

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

Reasons

5. The appeal property is an end of terrace two-storey house. The application sought to demonstrate that the erection of a hip to gable roof extension, rear dormer window and two rooflights constitutes development permitted by Schedule 2 Part 1 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Class B

- permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof subject to conditions and limitations.
6. It is evident from the submitted plans and as I observed at my site visit, a part single, part two-storey side and rear extension have also been erected. It appears from the Council's evidence that those extensions were erected at the same time as the development subject of the application, as a single act of development. The appellant has not sought to dispute this.
 7. Consequently, notwithstanding the description given in the application, it would not be correct to evaluate the hip to gable roof extension, rear dormer window and two rooflights against the criteria in Class B, as separate elements, since the extensions are clearly physically and functionally connected to one another and are therefore not severable.
 8. In order to be permitted development the development must meet *all* [my emphasis] the limitations and conditions under each Class relevant to the development, in this case those in Class A and B.
 9. Since the development includes a two-storey side extension it would fail to meet the Class A.1.(j)(ii) requirement as the enlarged part of the dwellinghouse extends beyond a wall forming a side elevation of the original dwellinghouse and has more than a single storey.
 10. It appears to me that it would also fail to meet the Class A.1.(i) requirement as the enlarged part of the dwellinghouse is within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part exceed 3 metres. Hence it would not be permitted by Class A of Part 1 of Schedule 2 of the GPDO.
 11. Accordingly, the development does not comply with all the limitations and conditions in each relevant class and therefore is not permitted by the GPDO. It follows that the Council's decision to refuse to grant a certificate of lawful use or development in respect of *the alteration of roof to gable end, construction of rear facing dormer window and installation of two rooflights to front roof slope of the dwellinghouse* 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.

Felicity Thompson

INSPECTOR