



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 01st March 2022

Appeal Ref: APP/C5690/X/21/3280362

90 Arngask Road, London SE6 1XX

- 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 Miss Mitzi Nichol against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/21/121942, dated 24 May 2021, was refused by notice dated 20 July 2021.
 - 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 3m rear extension with a pitched roof 2.5m to the eaves and 3.5m at main house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was not necessary for a site visit to be made to determine the appeal.

Main Issue

3. The main issue in this appeal is whether or not the Council's decision to refuse the LDC was well-founded.

Reasons

4. Article 3(1) and Schedule 2, Part 1, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) provides permitted development rights for the enlargement, improvement or other alteration of a house. These rights are subject to limits and conditions set out in the statute.
5. One of the limits is that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse (A.1 (j)(iii)).
6. A wall forming a side elevation of a house will be any wall that cannot be identified as being a front or rear wall.
7. According to Drawing No ARNGASK 01/2021 (Revision A02), the rear extension would extend across the entire width of the original dwellinghouse and would replace a rear projecting element containing a WC. I have not seen evidence from the appellant to satisfy me on the balance of probabilities that this rear projection does not form part of the original dwellinghouse.

8. Accordingly, and notwithstanding what the Council decided in respect to the neighbouring extension¹, the appeal development would extend beyond a wall forming a side elevation of the original dwellinghouse since it would extend beyond the side wall of the rear projection of the property.
9. The limitations to permitted development are based on the original dwellinghouse and apply even if part of the original is removed. They therefore apply in this case notwithstanding that the side wall of the existing rear projection would be demolished as part of the proposed development.
10. For these reasons, the proposed appeal development is not afforded planning permission under the GPDO.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development 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.

Andrew Walker

INSPECTOR

¹ DC/19/113457; 92 Arngask Road, London SE6 1XX