
Appeal Decision

Site visit made on 14 March 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Appeal Ref: APP/Z4310/X/21/3285656
40 Rocastle Close, Liverpool L6 1PJ

- 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 failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by Mr R Rothschild of Rocastle Limited following an application to Liverpool City Council.
- The application Ref 21LE/1619 was dated 2 July 2021.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended ('the 1990 Act').
- The development for which a certificate of lawful use or development is sought consists of a single storey rear extension and rear dormer additions.

Summary Decision: the appeal is dismissed.

Application for costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

2. The application seeks a lawful development certificate to confirm that extensions and alterations to a dwellinghouse were lawful on the date of the application. Lawfulness is claimed on the basis that the works were permitted by article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') by reference to Classes A and B of Part 1 of the Second Schedule to the Order. The main issue in the appeal is thus to establish whether the development is described as permitted by the Order.

Reasons

3. For the purposes of the 1990 Act uses and operations are lawful at any time if no enforcement action may then be taken in respect of them, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. The development consists of a single storey extension to the dwelling, as described in Class A, and alterations to its roof, as described in Class B. From the plans before me and from observing the development it does not appear that the extensions have been constructed in a way contrary to any of the exceptions to either of those Classes (such as volumetric limits or proximity to

the property's boundary). Nonetheless I am unable to conclude that no enforcement action may be taken against either development because of the failure in each case to comply with the relevant condition requiring that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse (respectively A.3(a) and B.2(a)).

5. The dormer extension has been clad in what is described on the plans as anthracite cladding and has the appearance of moulded horizontal boarding. Such cladding appears nowhere else on the property. The roof of the single storey extension has been covered with plain roof tiles. Neither of these treatments are similar in appearance to the concrete pantile roof tiles of the pre-existing roof, or to the exterior walls of the dwellinghouse. The windows are made of white uPVC rather than the brown frames of the pre-existing house.
6. It is not for me to say whether any of this raises any planning objection, as that is not the purpose of this appeal. However, I cannot be satisfied that no enforcement action may be taken, should the Council deem it expedient, and thus I shall dismiss the appeal.

Conclusion

7. For these reasons I conclude that the Council's deemed refusal to grant a certificate of lawful use or development in respect of a single storey rear extension and rear dormer additions 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

8. The appeal is dismissed.

Laura Renaudon

INSPECTOR