



Appeal Decision

by **Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 June 2022

Appeal Ref: APP/E5330/X/22/3291007

106 Woolacombe Road, Kidbrooke, LONDON, SE3 8QL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ali Nassir Sozan against the decision of Royal Borough of Greenwich.
 - The application ref 21/3511/CP, dated 20 September 2021, was refused by notice dated 25 November 2021.
 - The application was made under section 192(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 is a hip-to-gable loft conversion with rear and front dormer windows and two front roof lights.
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DECISION

1. The appeal is dismissed.

REASONS

2. The documentation submitted with the appeal confirms that the application to the local planning authority (LPA) was for a certificate of lawful use or development, not an application for planning permission. The described planning merits of and reasons for the proposal, as set out in the design and access statement and grounds of appeal, are not relevant to determining whether the extension would be lawful or not.
3. The main issue is whether the authority's refusal is well founded, considering whether the proposal amounts to development requiring planning permission and if so whether permission has been granted by a development order.
4. The plans of the existing dwelling show a two storey semi-detached house with a hipped roof. The plans of the proposal show the creation of living accommodation within the roof space that requires an extension of the roof, involving a hip to gable conversion at the side and the insertion of dormers within the front and rear roof slopes. The submitted plans show matching materials for the roof tiles and the finish to the side gable. The rear dormer would incorporate two sets of full length windows, with glazed Juliet balconies attached.
5. There is no doubt that the extension would be a building operation falling within the meaning of development requiring planning permission under the statutory framework of the 1990 Act. There is no evidence in the planning history of the property of an extant planning permission granted by the LPA for the proposal. In the alternative, the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) by way of article 3

- grants planning permission for a range of developments within the curtilage of a dwellinghouse, as set out in Part 1 of Schedule 2.
6. Class B of Part 1 concerns the enlargement of a dwelling house consisting of an alteration or extension to its roof. Paragraph B.1 sets out a number of circumstances when such development is not permitted and paragraph B.2 sets out the conditions that apply to development that is permitted.
 7. The appellant relies on the fact that the cubic content of the resulting roof space would not exceed the cubic content of the original roof space by more 50 cubic metres. The LPA agrees this would be the case, although calculating a slightly greater increase than the appellant (49.2m³ as opposed to 47.677m³). Given the lack of significant dispute on this point, I do not take issue with the overall finding.
 8. The LPA also accepts that the proposal would comply with all other of the criteria apart from one. Criterion (c) states that development is not permitted if any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. The proposal incorporates a dormer within the front roof slope facing Woolacombe Road and therefore fails to comply with this requirement. The development is not permitted.
 9. In the reasons for refusing to grant a certificate the LPA also cited the failure of the proposed development to comply with the matching materials condition in respect of the Juliet balconies. The appellant has not provided any response or further information on the matter in his appeal. Therefore this lack of compliance is a supplementary reason why the development would not be permitted development.
 10. I have considered whether it would be possible to grant a certificate in respect of any part of the proposal but the plans indicate that the front and rear dormer windows are integral to the scheme.
 11. In summary, the proposal amounts to development requiring planning permission and permission has not been granted, either by a development order or by the LPA.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a hip-to-gable loft conversion with rear and front dormer windows and two front roof lights 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.

Diane Lewis

INSPECTOR