

Appeal Decision

Site visit made on 15 June 2022

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

APP/N5090/X/21/3278804

52 Wolmer Gardens, Edgware HA8 8QD

- 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 by the London Borough of Barnet Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Kiran Vyas.
- The application, reference 21/1333/192, was registered on 11 March 2021. It was refused by a notice dated 8 April 2021.
- The development for which a certificate of lawful use or development was sought was for: Roof extension involving hip to gable, 1 no side gable window, rear dormer window and 2 no front facing rooflights.
- The application was made under section 192(1)(b) of the Act for a certificate of lawfulness for the proposed roof extension, side gable window, rear dormer window and 2 front facing rooflights.

Summary of decision: A certificate of lawfulness is not issued.

Appeal proposal

1. No. 52 Wolmer Gardens is a hipped roofed two storey semi-detached house in a street of mostly similar houses. The Appellant, Mr Vyas, intends to extend the house by adding a hip to gable roof extension and providing a side gable window, a rear dormer window and 2 front facing rooflights.

Council's case

2. The Council said they refused to issue a certificate of lawfulness because the proposed roof extension would extend beyond the plane of an existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

Inspector's considerations

3. The Town and Country Planning (General Permitted Development) Order 2015 as amended, (the Order), grants planning permission for the classes of development described as permitted development in Schedule 2. The permissions are subject to limitations and conditions.
4. Class A, Part 1 of Schedule 2 – enlargement, improvement or other alteration of a dwellinghouse at Class B – additions etc to the roof of a dwellinghouse, is subject to condition B.1(c) – *development is not permitted by Class B if – B.1(c): 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 details contained in the application must show that all the concession conditions and limitations are satisfied. However, where an extension 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, it will not be permitted development and will therefore require an application for planning permission.

5. The house, No. 52, has a hipped roof, with a uniform slope down to the south-east, except for a small section to the rear of the house, where a second, much smaller road facing parallel roof slope is set well back on the main roof. This much less evident roof slope would be altered by the hip to gable extension extending this section forward of that existing roof slope. Because of that, the appeal project would not comply with condition B.1(c) of the Order.
6. This conclusion may seem unduly or harshly uncompromising. But Order concessions are not concerned with matters of planning merit or whether any measured failure to comply with a condition or limitation is large or small. An enlargement scheme either precisely complies with the limitations of the Order or it does not. Also, where any part of the scheme does not comply, none of the development is granted planning permission by the Order. The case of *Garland v MHLG* [1968] 20 P&CR 93 is authority for that position, also see *Fayrewood Fish Farms v SSE & Hampshire CC* [1984] JPL 267.

Conclusion

7. I consider the Council's interpretation of the Order limitations as applied in the present instance to have been correct. Mr Kiran Vyas's project for extensions at 52 Wolmer Gardens, Edgware HA8 8QD would not be development permitted by the Order.

FORMAL DECISION

8. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development for the roof extension involving hip to gable, 1 no side gable window, rear dormer window and 2 no front facing rooflights at 52 Wolmer Gardens, Edgware HA8 8QD was well founded and that the appeal should fail. I exercise the powers transferred to me by s.195(3) of the Act accordingly.

John Whalley

INSPECTOR