The Planning Inspectorate

Appeal Decision

Site visit made on 2 August 2022

by Ms S Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/R5510/X/21/3271047
16 Mount Pleasant, Ruislip, HA4 9HG

- 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 Mrs Caroline Kavanagh against the decision of the Council of the London Borough of Hillingdon.
- The application ref 69187/APP/2020/2501, dated 11 August 2020, was refused by notice dated 24 September 2020.
- 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 a loft conversion/extension with side gable ends, rear facing dormer, flank wall window and front roof windows.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse the LDC was well founded. This turns on whether the proposed roof development would constitute permitted development and therefore granted planning permission by Article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), on the date the application was made. The planning merits of the proposal are not relevant.

Reasons

3. 16 Mount Pleasant is a detached dwelling with a hipped roof. The development would be on the two-storey part of the house and would consist of a dormer extension to the rear of the roof and also the building up of the two side gables resulting in the roof becoming gabled rather than hipped.

4. 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.

5. Class B of Part 1 grants planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to certain limitations contained in paragraph B.1. All limitations must be satisfied. The disputed limitation is criterion (c) which 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 Council accepts that the proposal would comply with all of the other criteria and I have no reason to disagree.

6. The principal elevation of the appeal house fronts a highway and is the front of both the main two storey element of the house and a lower height structure which is set back from the main two storey element.

7. The Council's case is that the proposed roof addition would extend beyond the box dormer on the single storey set-back. I accept that the roof addition would be further forward than the dormer. However, notwithstanding the fact that the flat roofed dormer does not have a roof slope fronting the highway, the gable extension would not be directly above the dormer, i.e., it would not be constructed on this set back part of the house.

8. I noted at my visit that there is a roof slope on this set back part of the principal elevation which fronts the highway but it is not shown on the submitted front elevations. However, as in the case of the existing dormer, the roof addition would not be on this part of the house.

9. Page 15 of the Technical Guidance[1] contains two diagrams of a principal elevation showing that although a principal elevation can include more than one wall facing in the same direction, for example, where there is an "L" shaped frontage, the line for determining what constitutes "extends beyond a wall" is shown as applying different limits to the different components of the elevation. These diagrams are referred to within the Criterion (c) guidance on pages 33-34.

10. The hip to gable extension would be confined to the forward most part of the building and would not extend beyond the plane of any existing roof slope on the part of the building it would be attached to.

11. The proposal would, therefore, conform with limitation B.1(c) and the proposed works are permitted development under Class B of the GPDO and would be granted planning permission.

Conclusion

12. I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a loft conversion/extension with side gable ends, rear facing dormer, flank wall window and front roof windows was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act as amended.

Ms S Watson

INSPECTOR

[1] Ministry of Housing, Communities and Local Government; Permitted Development Rights for Householders, Technical Guidance, September 2019

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 11 August 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto, edged red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason: the loft conversion/extension with side gable ends, rear facing dormer, flank wall window and front roof windows comply with Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Ms S Watson
Inspector

Date: [10/08/22]
Reference: APP/R5510/X/21/3271047

First Schedule

A loft conversion/extension with side gable ends, rear facing dormer, flank wall window and front roof windows as shown in Drawing Numbers: 16mountpleasant/2020/04/05/06

Second Schedule

Land at 16 Mount Pleasant, Ruislip, HA4 9HG

IMPORTANT NOTES – SEE OVER

Plan

This is the plan referred to in the Lawful Development Certificate dated: [10 August 2022]

by Ms Watson BA(Hons), MCD, MRTPI

Land at: 16 Mount Pleasant, RUISLIP, HA4 9HG

Reference: APP/R5510/X/21/3271047

Scale: Not to Scale

Block Plan Scale 1:500

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified

date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.