
Appeal Decision

Site visit made on 3 August 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2022

Appeal: APP/W5780/X/21/3276489

31 Elmhurst Drive, South Woodford, London E18 1BP

- 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 lawful development certificate (LDC).
 - The appeal is made by Mrs Debbie Green against the decision of the London Borough of Redbridge.
 - The application Ref 1036/21, was dated 15 March 2021, was refused by notice dated 22 April 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 lawful development certificate is sought is loft conversion designed to meet permitted development requirement.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application made under s192(1)(b) specifically sets out the development proposed. During my site visit I saw that the appeal property had been extended, but this materially differs from the proposal that is before me. Therefore, it is not a consideration for the purposes of the appeal before me, as my determination of the appeal is limited to whether the development applied for would not require the benefit of a planning permission.

Main Issue

3. I consider that the main issue is whether the Council's decision to refuse an LDC was well-founded. This will turn on whether the proposed development would constitute permitted development by virtue of the provisions of Article 3(1) and Class B Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) ('the GPDO').

Reasons

4. An application under S192(1) of the Town and Country Planning Act 1990 (as amended)(the 'Act') seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
5. From the evidence before me the sole point in dispute between the parties, in terms of Class B, relates to whether the cubic content of the resulting roof space of this semi-detached property would exceed the cubic content of the

original roof space by more than 50m³. Accordingly, I have had regard to the provisions of Class B of the GPDO in order to assess the evidence and conclude on this issue.

6. There are two parts to the proposed loft conversion. The first is to alter the existing extended hipped roof. The second is a dormer extension to the rear. However, the starting point is to consider what the original roof space is given that for the purposes of Class B 'resulting roof space' means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.
7. At the time when the application was made, the appeal property had been extended to the side with a two storey hipped roof extension. It is clearly not part of the property's original roof space and as such, along with the works that make up the loft conversion now proposed, it needs to be considered as part of the additional roof space resulting.
8. I note the calculations provided by the parties to demonstrate what the resulting roof space would be. From the figures used in the calculations before me, I am more convinced by the appellant's version as they are more accurate due to the additional decimal places used. However, the total volume that is suggested by the appellant subtracts the roof space formed by the previous extension from the loft conversion now proposed, which includes some of that same volume. This is incorrect as it was not part of the original roof space and should therefore be included in any assessment of the resulting roof space.
9. Based on the appellant's figures, but by working out the resulting roof space without discounting the existing extension's roof space, this would mean, once the small roof space to the rear is subtracted, that the cubic content of the resulting roof space would be 50.16m³. Therefore, by virtue of the additions proposed to the roof of the dwelling, the loft conversion proposed is not permitted development by reason of the provisions of Class B.1(d)(ii).
10. Thus, for the reasons given above, I find on the balance of probabilities that the proposed loft conversion would not be development which is permitted by Class B of the GPDO.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a lawful development certificate in respect of a loft conversion was well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me under section 195(3) of the 1990 Act as amended.

Andrew McGlone

INSPECTOR