The Planning Inspectorate

Appeal Decision

Site visit made on 20 September 2022

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/N1920/X/21/3286600
1A Sutcliffe Close, Bushey WD23 3PL

- 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 Elliot Esterson against the decision of Hertsmere Borough Council.
- The application ref 21/1898/CLP, dated 17 September 2021, was refused by notice dated 8 November 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 certificate of lawful use or development is sought is the insertion of side and rear dormer window, together with the insertion of 3 no. rooflights to front roof slope, 1 no. rooflight to side roof slope and 1 no. rooflight to rear roof slope to facilitate the conversion of the existing loft to provide habitable accommodation. Insertion of new facing brickwork and casement window following the removal of the existing garage door to facilitate the conversion of the existing garage to provide habitable accommodation.

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.

Preliminary Matters

2. The appellant suggests that the proposed development would be constructed in accordance with the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), known as 'permitted development'. However, the Council refused the application as they suggest the dormer would extend beyond the plane of the existing roof slope that forms the principal elevation of the dwellinghouse and fronts a highway. As such, they suggest that it conflicts with Class B.1(c), Part 1, Schedule 2 of the GPDO.

3. There is no dispute that the roof extension complies with the requirements of Classes A, B and C, Part 1, Schedule 2 of the GPDO other than the limitation at Class B.1(c). I see no reason to disagree. The main issue is whether the Council's decision was well-founded taking account of any changes to the roof above the principal elevation.

Reasons

4. Class B.1(c), Part 1, Schedule 2 of the GPDO 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.

5. 1A Sutcliffe Close is an end of terrace house situated on a corner in the road. As a result, two elevations of the property face toward the highway. The garage is internal and located closest to the attached neighbouring property, with the garage door facing the road. A kitchen is located within the property next to the garage with a window in a single storey projection that the appellant describes as a "faux porch". That window faces in the same direction as the garage door. There are two bedroom windows at first floor level on that elevation. However, there are no other doors on that elevation.

6. The main entrance door is located on the other elevation of the property that faces the highway. That side contains only two other windows, a secondary window serving the dining room and a modest window serving the smallest bedroom on the upper floor.

7. The attached neighbouring property has its front door on the same elevation as the garage door to no. 1A, fronting Sutcliffe Close, with its garage set back from the front elevation with a lower roof above. No. 1C beyond is of a similar design to no. 1B and faces the same direction. It is clear that the principal elevation of nos. 1B and 1C is that fronting Sutcliffe Close. Whilst this elevation of no. 1A appears utilitarian due to the garage door, its relationship with the attached no. 1B indicates that this elevation may be the principal elevation.

8. Sutcliffe Close is a cul-de-sac. The house is approached along the road past nos. 1B and 1C. Beyond no. 1A is a single detached dwellinghouse. Consequently, visitors would arrive at the elevation with the garage door first when approaching the house by road. This factor also suggests the elevation with the garage door is the principal elevation.

9. The elevation with the main door is longer than that containing the garage door. However, it is common on semi-detached and terraced houses for their depth to be greater than their width. That further indicates the elevation with the garage door could be the principal elevation.

10. I note that the main door of dwellinghouses are commonly located on the principal elevation. However, that is not always the case. Taking account of the limited other features of this elevation, overall it appears to be the side elevation of the house. As a result, the elevation with the main door is less likely to be the principal elevation in this instance.

11. For the above reasons, on balance I conclude that the principal elevation of this dwelling is that presently containing the garage door. Consequently, the proposed dormer roof does not extend above the principal elevation of the dwellinghouse. It does not, therefore, conflict with the limitation at Class B.1(c), Part 1, Schedule 2 of the GPDO.

12. The proposal comprises the conversion of the garage to a dining room, W.C. and utility room, conversion of the loft with a large dormer and rooflights to the roof. I note that rooflights are to be inserted into the roof above what I have concluded is the principal elevation, but I understand these would comply with the requirements of Class C, Part 1, Schedule 2 of the GPDO. As there is no dispute that the proposal would conflict with any other part of Part 1, Schedule 2 of the GPDO, I consider the development comprises permitted development.

Conclusion

13. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed insertion of side and rear dormer window, together with the insertion of 3 no. rooflights to front roof slope, 1 no. rooflight to side roof slope and 1 no. rooflight to rear roof slope to facilitate the conversion of the existing loft to provide habitable accommodation. Insertion of new facing brickwork and casement window following the removal of the existing garage door to facilitate the conversion of the existing garage to provide habitable accommodation was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

AJ Steen

INSPECTOR

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 17 September 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development would benefit from the planning permission granted by Article 3 and Classes A, B and C, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

AJ Steen
Inspector

Date: [29 September 2022]
Reference: APP/N1920/X/21/3286600

First Schedule

The insertion of side and rear dormer window, together with the insertion of 3 no. rooflights to front roof slope, 1 no. rooflight to side roof slope and 1 no. rooflight to rear roof slope to facilitate the conversion of the existing loft to provide habitable accommodation. Insertion of new facing brickwork and casement window following the removal of the existing garage door to facilitate the conversion of the existing garage to provide habitable accommodation.

As shown on drawing numbers 99 Location Plan, 200 Proposed Ground Floor Plan, 201 Proposed First Floor Plan, 202 Proposed Attic Plan, 203 Proposed Roof Plan, 204 Proposed Front Elevation, 205 Proposed Rear Elevation, 206 Proposed Side Elevation, 207 Proposed Section.

Second Schedule

Land at 1A Sutcliffe Close, Bushey WD23 3PL

IMPORTANT NOTES – SEE OVER

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 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 not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 29 September 2022

by AJ Steen BA (Hons) DipTP MRTPI

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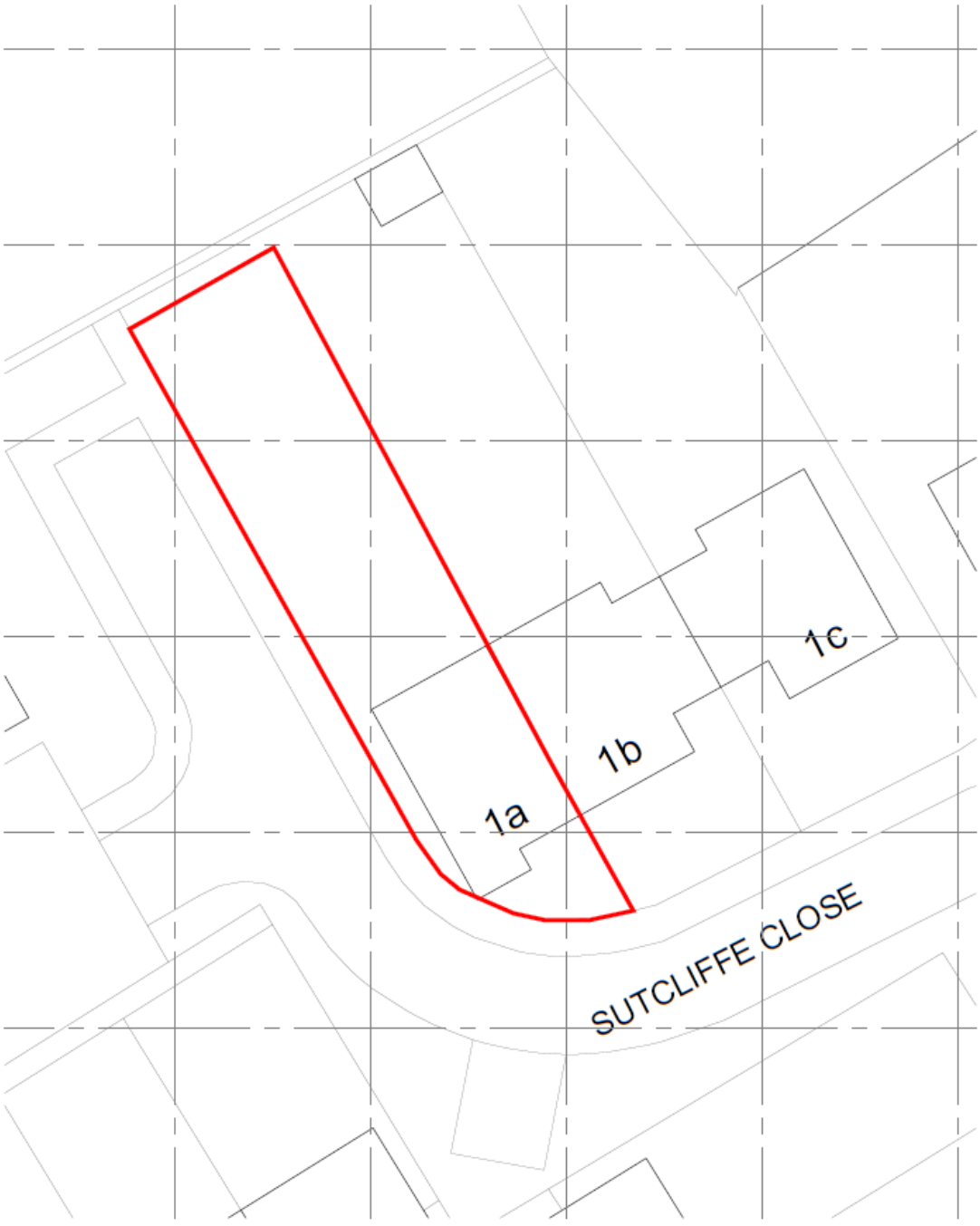
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