



Appeal Decision

Site visit made on 27 September 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/F5540/X/22/3292496

90 Linkfield Road, Isleworth TW7 6QH

- 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 Tonin Kacaj against the decision of the Council of the London Borough of Hounslow.
 - The application ref 00702/90/LAW1, dated 7 January 2022, was refused by notice dated 27 January 2022.
 - 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 demolition of side conservatory, construction of a ground floor side extension 2.4m wide x 4.26m long x 3m high to form (sic) a new kitchen living diner with new fenestration and a roof light, alterations to the side porch, installation of non-opening 1st floor side window to rear bedroom obscured glazed, new window to 1st floor rear elevation and construction of refuse storage enclosure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am dealing with another appeal which relates to 90 Linkfield Road (Appeal Ref. APP/F5540/W/22/3292585) which concerns a proposal to demolish a conservatory and parking garage and construction of a 2-storey plus lower ground 3-bedroom dwellinghouse, refuse enclosure, landscaping and incidental works. This appeal is the subject of a separate decision.

Main Issue

3. The main issue is whether the decision by the Council to refuse to grant an LDC is well-founded.

Reasons

4. The application was made under section 192(1)(b) of the Act which relates to proposed development in the form of operations. The appellant submits that the proposed works which are described in the application would amount to permitted development under Schedule 2, Part 1, Class A (Part 1, Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO). For that reason, they consider that the development does not require express planning permission.
5. The Council says that with the exception of the single storey side element, all other aspects of the proposal would be permitted development. There is no

evidence before me to demonstrate that this would not be the case, therefore the appeal concerns what the appellant describes as a ground floor side extension 2.4m wide x 4.26m long x 3m high only.

6. Part 1, Class A sets out that the following would be permitted development:

The enlargement, improvement or other alteration of a dwellinghouse.

But development is not permitted by Class A if –

(f) the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

7. The Council considers that the development does not constitute permitted development because the extension would extend 3.92 metres beyond the rear wall of the dwelling and therefore it would not meet the conditions and limitations of Part 1 Class A specifically paragraph (f)(i).
8. The evidence provided by the appellant in the form of historical maps shows that the lean-to conservatory which is attached to the side wall of 90 Linkfield Road (No. 90) is not part of the original building and neither party is arguing that it is. On the 1912 and 1935 maps the building has a staggered roughly L-shaped footprint being the handed version of the attached neighbour.
9. There is a dispute between the parties in this case as to which part of the building constitutes the rear wall. The appellant considers that the inset along the side of the house is a minor recess and that the rear wall of the building as a whole should be taken as the rear wall for the purposes of assessing the proposal against Part 1 Class A (f) (i).
10. The submitted plans show a clear distinction between the main part of the dwelling and the two storey rear wing, and the appellant says that the recess is 842 mm deep. My observations during my site visit and the photographs provided by the appellant reveal that the recess is sufficiently wide to accommodate a window at first floor level. To that extent the recessed element amounts to a wall.
11. The Permitted development rights for householders Technical Guidance (September 2019) (the Technical Guidance) establishes that where the original rear wall of a house is stepped, as is the case here, then each of these walls will form the rear wall of the original dwellinghouse.
12. The length of the extension is not defined on the plans, the appellant refers to this dimension as 4.26m in his application but also states that he agrees with the Council's measurement of 3.92m. Notwithstanding which dimension is the correct one in both instances the extension would extend beyond the rear wall of the original dwellinghouse by more than 3 metres and consequently by virtue of paragraph (f)(i) it would not amount to permitted development under Part 1, Class A.
13. The Technical Guidance establishes that where an extension fills the area between a side elevation and a rear wall then the restrictions beyond rear walls

and side walls both apply. Part 1, Class A paragraph (j) sets out the conditions and limitations imposed in respect of side extensions and the proposed development complies with them. However, as it does not meet the conditions and restrictions of Part 1, Class A paragraph (f), the extension cannot be regarded as permitted development.

14. The appellant considers that the proposed extension complies with the Technical Guidance as it relates to rear and side extensions including a diagram showing an extension 6m in depth in a similar position as that proposed. However, the 6m dimension in that case is only permitted development where householders wishing to build such an extension to a semi-detached house have sought and obtained prior approval from the Council. Otherwise, the proposed extension is restricted to 3m.
15. The appellant has submitted a copy of a decision notice dated 3 May 2022 which he has received from the Council. This notice confirms that Prior Approval is not required for a ground floor extension to be constructed at No. 90. However, this decision had not been made when the appeal scheme was determined by the Council.
16. Furthermore, there is limited information before me in respect of the application submission in that case. For those reasons this decision does not undermine my conclusion that the extension which is the subject of the appeal does not amount to permitted development.
17. The appellant further suggests that on the basis of an example shown in the Technical Guidance the addition to No.90 could be extended to the front wall of the house as permitted development. However, that is not the nature of the scheme before me, and the merits of any potential alternative scheme are not relevant in an appeal under s195.
18. In order to benefit from the provisions of Part 1, Class A the proposed development must comply with paragraphs (f) and (j). In this case by virtue of its depth the development does not comply with paragraph (f). The extension is not permitted by the GPDO. Express planning permission is required for the development and that can only be granted on application made to the local planning authority in the first instance.

Conclusion

19. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of demolition of side conservatory, construction of a ground floor side extension 2.4m wide x 4.26m long x 3m high to form a new kitchen living diner with new fenestration and a roof light, alterations to the side porch, installation of non-opening 1st floor side window to rear bedroom obscured glazed, new window to 1st floor rear elevation and construction of refuse storage enclosure at 90 Linkfield Road, Isleworth TW7 6QH 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.

Sarah Dyer

Inspector