



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: 27th October 2022

Appeal Ref: APP/M5450/X/21/3279048

8 Hooking Green, North Harrow, Harrow HA2 6AD

- 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 Mr Sam Khuzema against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0687/21, was dated 18 February 2021, was refused by notice dated 15 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 alterations to roof to form end gable to assist introduction of rear dormer and 2 additional rooflights to front roof slope.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It should be borne in mind that decisions made by any local planning authority or Inspector do not constitute case law. That said, the findings and approach to a particular matter may be material and there is a need for consistency in the planning process. However, I am not bound to reach the same conclusions as previous decision makers provided there are sound planning reasons for departing from a previous decision. I must evaluate the evidence presented in relation to this particular proposal and site.

Main Issue

3. 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 Classes B and C 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. Aside from the Council's concerns about the accuracy of the submitted plans,

there are two matters in dispute based on the evidence before me. These are: whether the resulting roof space would exceed the cubic content of the original roof space by more than 50m³; and that as a result of the works any part of the dwellinghouse would extend beyond the plane of any existing roof slope which forms the principle elevation of the house, and which fronts the highway.

6. 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. The appeal property was extended, following a grant of planning permission in 1980, to the side and rear. A further planning permission was granted in April 2021 to extend the dwelling to the side and rear, but as this permission has yet to be implemented it does not form part of the resulting roof space at the current time.
7. The existing single storey flat roofed rear extension has not enlarged the original roof space. Nor does it form part of the principle elevation which can include more than one wall facing in the same direction. In this case, the principle elevation comprises of the two-storey bay window, the porch and the staggered ground and first floor elevation to the side that fronts the road. It follows that, even though the two-storey side extension only modestly increased the dwelling's original roof space, the part of its hipped roof fronting the road now forms part of the dwelling's existing roof slope which forms part of the principal elevation of the dwelling facing a highway.
8. Consequently, even if the original roof space of the property would not be extended by more than 50m³, the development subject of this appeal would extend in front of the forward part of the hipped roof to the two storey side extension. This is because paragraph B.1(c) of the GPDO states that development is not permitted by Class B if any part of the dwellinghouse would, as a result of the works, extend beyond the plane of *any existing roof slope* (my emphasis) which forms the principal elevation of the dwellinghouse and fronts a highway.
9. The intended purpose of the works is to create additional rooms in the loft. To achieve this, the dormer roof extension is required to facilitate access from the first floor of the property and to provide the desired space and head height to make the rooms usable. The roof lights proposed in the front roof plane would serve the baby room and bedroom 4, and whilst they would be development which is permitted by Class C of the GPDO, as the roof lights intended purpose would not be functionally severable from the dormer roof extension and loft conversion, I am, on this occasion, unable to issue a split decision.
10. Two schemes on Mount Pleasant in Hillingdon have been cited by the appellant. Both involved converting the loft with a hip to gable extension and a rear dormer extension, among other things. From the images provided both appear to have been carried out, but I do not know what the physical configuration of these properties was before the works took place, so it is unclear what the Council considered to be the existing roof slope on the property's principle elevation. There may be some inconsistency in the Council's approach to that and my own, but as I have explained, I am not bound by previous decisions to issue a LDC's for a purported similar development.
11. Based on the evidence, I am satisfied that the proposal does not accord with the limitation set out in paragraph B.1(c). Therefore, I find on the balance of probabilities that the proposed alterations to the roof to form an end gable and rear dormer; installation of two rooflights in front roof slope, would not be

development, which is permitted by Classes B and C of the GPDO. The Council's concerns about the accuracy of the submitted plans have not been determinative in this assessment.

Conclusion

12. For the reasons given above, I conclude that the Council's refusal to grant a lawful development certificate in respect of alterations to roof to form end gable to assist the introduction of a rear dormer and two additional rooflights to front roof slope was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me under section 195(3) of the 1990 Act as amended.

Andrew McGlone

INSPECTOR