
Appeal Decision

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 03 January 2023

Appeal Ref: APP/M5450/X/22/3300084
18 Compton Rise, Pinner HA5 5HR

- 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 certificate of lawful use or development (LDC).
- The appeal is made by Danica Scott against the decision of the Council of the London Borough of Harrow.
- The application Ref P/0896/22, dated 1 March 2022, was refused by notice dated 26 April 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 described in the application as hip to gable conversion, construction of box dormer on rear roof slope and two rooflights on front roof slope.

Summary Decision: the appeal is allowed and a certificate of lawful development issued in the terms set out below in the Formal Decision.

Preliminary Matters

1. The proposed development was described slightly differently from the above in the Council's notice of refusal, as 'alterations and extension to roof to form end gable; rear dormer; two rooflights in front roof slope; window in end gable'. I am not informed how this change in description came about, and the appeal form does not enlighten me, referring as it does only to the residential (C3) use. Nonetheless the Council's description of the proposal appears to me accurate, having regard to the submitted plans, and thus it forms the basis of my determination of the appeal.
2. It appeared to me on the basis of the submitted plans and documents that the appeal was capable of determination without recourse to a site visit; upon having received no objection from either party to this, I have thus proceeded to a determination.

Main Issue

3. The appellant seeks to rely on permitted development rights to carry out the roof extensions and alterations shown on the submitted plans. The Council's assessment of the proposal identified a single departure from the rights otherwise conferred by article 3 and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the 2015 Order').

4. That departure is that, in the Council's view, the proposed hip to gable extension element of the proposal would extend beyond the plane of an existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. If this is the case, permitted development rights would not apply to the proposal as a whole, and therefore this is the main issue for determination.

Reasons

5. The application plans and photographs show a semi-detached dwelling fronting onto Compton Rise. Looked at from the road, the dwelling is on the right hand side of the pair, with its neighbour having previously converted its main roof slope to a gable end; whereas the existing appeal dwelling has a hipped main roof slope. A double-height bay window with its own small hipped roof above lies forward of the main front wall of the dwelling, to which a garage is attached to the side, its roof sloping away from the side wall of the house. It appears to be a later addition, although nothing turns on that.
6. Ignoring the garage, the house is evidently wider at the rear than it is at the front. At approximately two-thirds of its depth, a wall projects from the side of the dwelling by around half a metre, with its own roof above ('the rear projection'). The eaves height of the whole roof is the same throughout. Above the rear projection, there is a chimney to the external side wall, and a hipped roof with a ridge joining the main roof at slightly under half the main roof height.
7. The result of all this is that the proposed hip to gable conversion of the 'main' roof would extend beyond the plane of the roof slope that lies above the rear projection. It is therefore necessary to decide, as a question of fact and degree, whether the roof slope above the rear projection (as it faces Compton Rise) forms part of the principal elevation of the dwellinghouse and, if it does, if it fronts a highway, albeit these questions are somewhat interchangeable in this case.
8. The (former) MHCLG publication, *Permitted Development Rights for Householders; Technical Guidance* published in September 2019 discusses such matters at pages 33 – 34 where reference is made to earlier sections of the guidance discussing what is meant by a 'principal elevation' and the factors, although an inexhaustive list, relevant to whether an elevation of a house fronts a highway.
9. The guidance identifies that the principal elevation 'could' include more than one wall facing in the same direction; for example where there are large bay windows on the front elevation, or where there is an 'L' shaped frontage. Here, however, I do not consider there is an 'L' shaped frontage. The rear projection is just that; it is a projection from the side elevation of the house at the rear, and the half-metre or so of wall by which it projects is insufficient in appearance and scale to warrant its description as forming part of the principal elevation to the front.
10. It is therefore strictly unnecessary for me to decide whether it fronts the highway, but given its extensive setback from the main front wall and roof slope of the house, I do not think it can reasonably be said to 'front' the highway in the context of the remainder of the house. Whilst it is visible from

the highway, and is approximately parallel to it, this small projection with roof above does not form part of the property's frontage.

11. Therefore I agree with the appellants that the rear projection, including its roof, is a projection from the side elevation, rather than being part of the principal elevation fronting the highway. For these reasons I find that the relevant criterion of Class B is not offended because there is no suggestion that the gable extension will project beyond the plane of the main roof slope, which I find does form the principal elevation of the dwellinghouse fronting the highway.
12. As there are no other suggested reasons why the proposal might not amount to permitted development, it follows that I shall allow the appeal.

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 development in respect of alterations and extension to roof to form end gable; rear dormer; two rooflights in front roofslope; window in end gable at 18 Compton Rise, Pinner HA5 5HR 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.

Formal Decision

14. The appeal is allowed and attached to this decision is a certificate of lawful development describing the proposed operations which are considered to be lawful.

Laura Renaudon

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 1 March 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto, 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 operations would have been permitted by article 3 and Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Laura Renaudon

Inspector

Date: 03 January 2023

Reference: APP/M5450/X/22/3300084

First Schedule

Alterations and extension to roof to form end gable; rear dormer; two rooflights in front roofslope; window in end gable as depicted on T R Harris Design & Surveying Services plans dated February 2022:

- 22/18CR/10: Existing Plans & Elevations;
- 22/18CR/20: Proposed Plans & Elevations;
- 22/18CR/21: Roof Dimension; and
- 22/18CR/22: Volume Calculation.

Second Schedule

Land at 18 Compton Rise, Pinner HA5 5HR

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, 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 operations described in the First Schedule and to the land specified in the Second Schedule. 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.