



Appeal Decision

Site visit made on 21 February 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/L3625/X/22/3294197

5 Wyeclyffe Gardens, Merstham, Redhill RH1 3HN

- 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 and Mrs Williams against the decision of Reigate and Banstead Borough Council.
 - The application ref 21/03237/CLP, dated 15 December 2021, was refused by notice dated 1 March 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 a proposed rear roof dormer extension and insertion of front roof lights with internal and external alterations and demolition to facilitate the works.
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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 considered to be lawful.

Main Issue

2. The main issue in this appeal is whether the Council's refusal to grant an LDC was well-founded. This turns on whether the appellants have shown that, on the balance of probability, planning permission is granted for the proposal by Article 3, Schedule 2, Part 1, Class B and Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

3. The appeal site contains a modern mid-terrace dwelling with an equally pitched, sloping roof. The proposal involves erecting a dormer across the rear roof slope and installing three rooflights in the front roof slope.
4. At Article 3, Schedule 2, Part 1, the GPDO grants planning permission for certain development within the curtilage of a dwelling. This includes in Class B, the enlargement of a dwelling consisting of an addition or alteration to its roof and in Class C any other alteration to the roof of a dwelling. In both instances the relevant limitations and conditions in those Classes have to be met.
5. Development is not permitted by Class B where any part of the dwelling would, as a result of the works, exceed the height of the highest part of the existing roof, having regard to paragraph B.1(b). The Government's Technical

Guidance¹ assists in interpreting the GPDO. It advises that the highest part of the roof of an existing dwelling will be the height of the ridge line of the main roof (even though there may be other ridge lines at a lower level) or the height of the highest roof where roofs on a building are flat. Chimneys, firewalls, parapet walls and other protrusions above the main roof ridge line should not be taken into account when considering the height of the highest part of the roof of the existing dwelling.

6. The highest part of the roof of the existing dwelling are the ridge tiles. The roof ridge tile detail has been omitted from the 'as existing' elevational and sectional drawings of the dwelling submitted with the LDC application but is shown on the 'as proposed' elevations and sectional drawings also submitted. This might perhaps be interpreted as an indication that the dormer would exceed the height of the existing ridge line of the roof of the dwelling. Even so, when the drawings are read in conjunction with the statement supporting the application, it is apparent that the highest part of the dormer is proposed to be no higher than the existing roof ridge tiles. Annotated copies of the drawings, supplied with the appeal and showing the existing ridge line and the roof line of the dormer including the existing and proposed roof ridge tile detail, provide further clarity in this respect.
7. Therefore, it is in my view highly likely that the highest part of the dormer would not exceed the highest part of the existing roof of the dwelling and that the limitation at paragraph B.1(b) is met. The dormer would not exceed any of the other relevant limitations concerning its size and location in paragraph B.1 of Class B. Also, it would not breach any of the conditions in paragraph B.2. As a result, the dormer meets the limitations and conditions of Class B. Similarly, the rooflights meet the limitations and conditions of Class C.
8. Consequently, based on the available evidence and on the balance of probability I am satisfied that the proposal is granted planning permission by the GPDO at Article 3, Schedule 2, Part 1 Class B and Class C and is lawful for planning purposes. Since an LDC is not the equivalent, in law, of a grant of planning permission, building other than in accordance with the limitations and conditions of Classes B and C would not be lawful in any event.

Conclusion

9. For the reasons given above I conclude that, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed rear roof dormer extension and insertion of front roof lights with internal and external alterations and demolition to facilitate the works 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.

Stephen Hawkins

INSPECTOR

¹ Permitted development rights for householders Technical Guidance MHCLG September 2019.