



Appeal Decision

Site visit made on 13 June 2023

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/N5090/X/22/3303256

26 Exeter Road, Southgate, Barnet, London N14 5JX

- 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 Bhavic Shah against the decision of the Council of the London Borough of Barnet.
 - The application ref 22/1122/192, dated 21 February 2022, was refused by notice dated 28 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 *loft conversion with rear dormer*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the appellant's original application form, noting that used by the Council in their decision notice. However, under s.192 there is no implied power to modify the description of the proposed development.
3. The application sought is a certificate of lawfulness for a proposed development. The purpose of an application made under s.192 of the Act is to find out whether proposed development, as described in the application form and shown on the drawings, would be lawful if instituted or begun at the time of the application, it is not the equivalent, in law, of a planning permission. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities.
4. The planning merits of the proposed development are not relevant to this appeal. My decision rests on the facts of the case and the interpretation of any relevant planning law. As such, whilst I have had regard to the LDC granted in respect of a similar development at 58 Exeter Road and that development at 56 Exeter Road, their existence has no bearing on my decision.

Main Issue

5. Whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

6. Schedule 2 Part 1 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits the

enlargement of a dwellinghouse consisting of an addition or alteration to its roof subject to conditions and limitations, including 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 (B.1.(c)).

7. The Governments Technical Guidance¹ sets out that the principal elevation could include more than one roof slope 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. In such cases, all such roof slopes will form the principal elevation and the line for determining what constitutes 'extends beyond the plane of any existing roof slope' will follow these slopes.
8. This is such a case. The principal elevation steps back where the front door is located and includes the front wall and front roof slope of the stepped back part.
9. The plane of the roof runs parallel with and at the same level of a roof slope and it is at the same height and slope as that surface, but the plane also continues beyond that surface.
10. Consequently, the proposed dormer does not have to be erected on a roof slope which forms the principal elevation of the dwellinghouse and fronts a highway to fail the B.1.(c) limitation, it only has to extend beyond (be in front) of the plane of such a roof slope.
11. In this case, the front section of the proposed dormer would clearly extend beyond the plane of the set back roof slope, which is part of the principal elevation and fronts a highway. Accordingly, the proposal would fail to meet the Class B.1.(c) requirement and it would not be permitted by Class B of Part 1 of Schedule 2 of the GPDO.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed *loft conversion with rear dormer* 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.

Felicity Thompson

INSPECTOR

¹ Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019