The Planning Inspectorate

Appeal Decision

Site visit made on 19 July 2023

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/E5330/X/22/3304829
1 Crumpsall Street, Greenwich, Abbey Wood SE2 0LP

- 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 Ms Bethany Worboyes against the decision of The Royal Borough of Greenwich Council.
- The application Ref 22/1507/CP, dated 4 May 2022, was refused by notice dated 29 June 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 as: Modification of the roof and the addition of a loft, materials of loft to match existing roof.

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 found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse the application was well-founded or not.

Reasons

3. Under section 192(1) of the 1990 Act, if any person wishes to ascertain whether any operations proposed to be carried out in, on, over or under land, would be lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the operations in question.

4. Under section 192(2), if, on an application under this section, the local planning authority are provided with information satisfying them that the operations described in the application would be lawful if begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for specified forms of development.

6. Schedule 2, Part 1, Class B of the Order concerns the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to

conditions and limitations. This is relevant for the proposed hip to gable and dormer extensions.

7. Schedule 2, Part 1, Class C of the Order concerns any other alteration to the roof of a dwellinghouse, subject to conditions and limitations. This is relevant for the roof lights which are proposed.

8. The Council considers that the ridge height of the dwellinghouse would be increased, contrary to criterion B.1.(b) of Schedule 2, Part 1, Class B of the Order. But this is not what the scaled drawings provided show. When the existing elevations are compared to those proposed, the ridge height of the roof is the same.

9. Following my site visit, I can appreciate that ridge tiles are not shown for 3 Crumpsall Street, next door, on the drawings. The appellant has acknowledged that No 3 is not accurately depicted on the drawings in this regard. But this does not mean that any part of the appeal building would, as a result of the works, exceed the height of the highest part of the existing roof.

10. The side cheek of the proposed dormer would not match the materials found on the existing roof of the dwellinghouse. So the Council considers that the proposal fails to accord with condition B.2.(a) of Schedule 2, Part 1, Class B of the Order. However, condition B.2.(a) states that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

11. The appellant states that the outside cheek of the proposed dormer would be formed from the proposed upward-extended gable wall and the whole new gable end of the property would be rendered to match the existing gable wall. As such, I am of the view that the proposal would comply with the wording of condition B.2.(a).

12. My attention has been drawn to page 35 of the Technical Guidance. I take this to mean the (former) Ministry of Housing, Communities & Local Government's *'Permitted development rights for householders – Technical Guidance'*, September 2019. The Council's report quotes a passage which states:

    "the face and sides of a dormer window should be finished using materials that give a similar visual appearance to existing house. So the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level."

13. The Technical Guidance is an aid to interpretation and application of the Order. But the starting point should still be the wording of the Order itself. Moreover, the Technical Guidance must be read as a whole. The above passage relied on by the Council is preceded by an **explanation** of condition B.2.(a), which states:

    "This condition is intended to ensure that any addition or alteration to a roof for a loft conversion results in an appearance that minimises visual impact and is sympathetic to the existing house. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials or match exactly. The visual impacts of the materials used will the most important consideration."

14. Taking the above into account, I am satisfied that the rendered outside cheek of the proposed dormer would be of a similar appearance to materials used in the construction of the exterior of the existing dwellinghouse, ie the relevant test from the Order. Furthermore, I am satisfied that the materials proposed would result in an appearance that minimises visual impact and is sympathetic to the existing house, ie the relevant test from the explanation in the Technical Guidance.

15. Taking all of the above into account, I am satisfied the proposal would not be unlawful. No other reasons have been provided as to why the appeal development would be unlawful. Nor do I have any reason to think it would be so.

Conclusion

16. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of: 'Modification of the roof and the addition of a loft, materials of loft to match existing roof', 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.

L Perkins

INSPECTOR

The Planning Inspectorate

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 4 May 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The roof extension and alterations, described on drawing numbers 20066-13 and 20066-14, both dated 4 May 2022, comply with Schedule 2, Part 1, Class B and Class C respectively of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed:

L Perkins
INSPECTOR

Date: 27 July 2023
Reference: APP/E5330/X/22/3304829

First Schedule

Modification of the roof and the addition of a loft, materials of loft to match existing roof.

Second Schedule

Land at 1 Crumpsall Street, Greenwich, Abbey Wood SE2 0LP

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 use /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, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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.

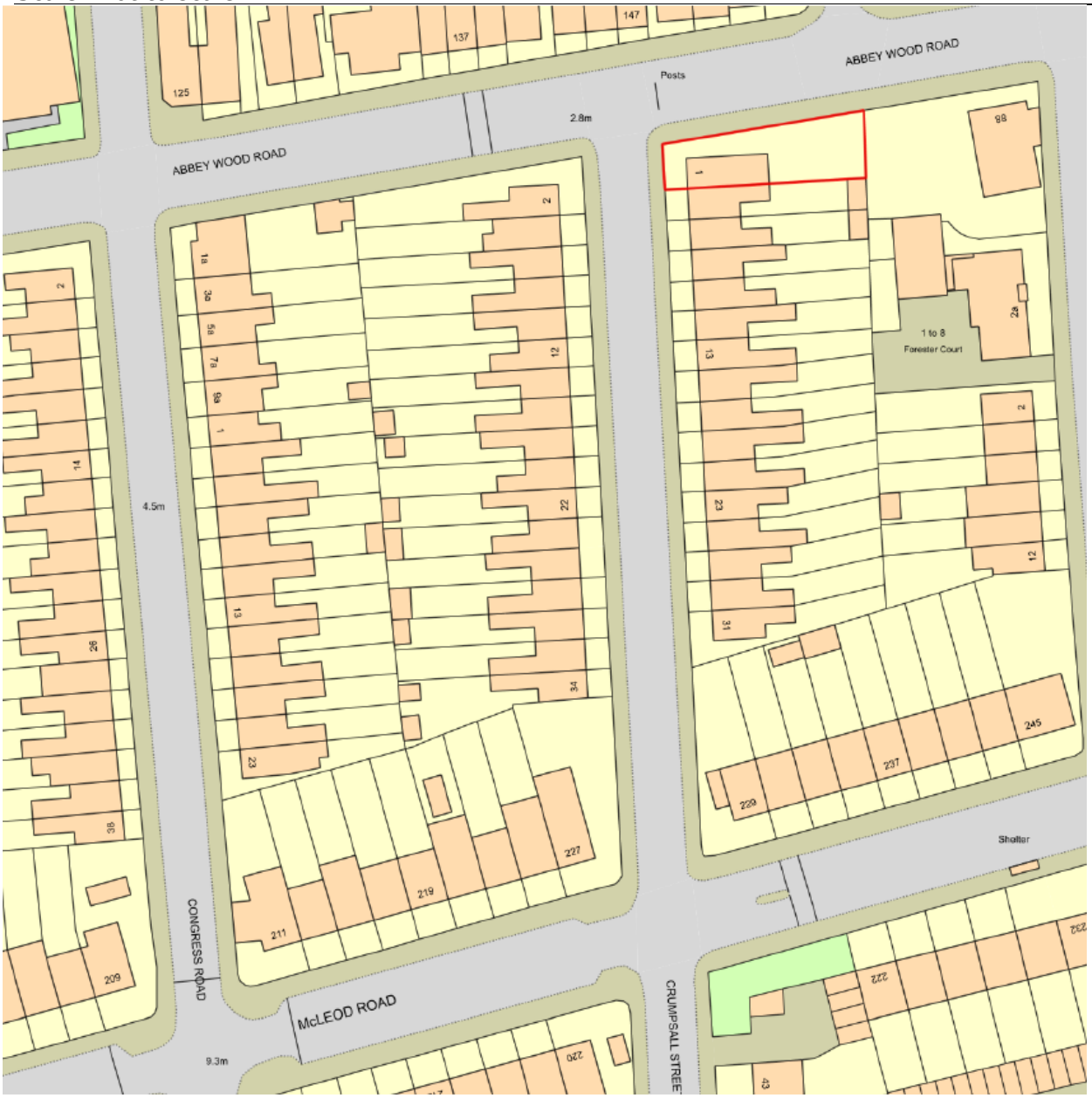
The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 27 July 2023

by L Perkins BSc (Hons) DipTP MRTPI

Land at: 1 Crumpsall Street, Greenwich, Abbey Wood SE2 0LP

Reference: APP/E5330/X/22/3304829

Scale: Not to scale