



Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/G5750/X/23/3317230

43 Tylney Road, Forest Gate, Newham, London E7 0LS

- 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 Idel Beckford against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/01049/CLP, dated 2 May 2022, was refused by notice dated 23 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 on the application form as a roof addition - outrigger - materials to match existing.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development under Schedule 2, Part 1, Class A or Class B of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

3. In a case such as this the onus of proof is on the appellant to show that on the balance of probabilities the development would be lawful at the time of the application. The Council has refused to grant the LDC on the grounds that the proposed extension extends from the rear wall of the host property and therefore constitutes a first floor rear extension and falls outside the remit of Class B. Furthermore, the Council contends that the proposed extension fails to meet the restrictions under Class A.
4. Under Class B (additions etc to the roof of a dwellinghouse) the enlargement of a dwellinghouse consisting of an addition to its roof is permitted development subject to conditions. Other than in the case where an enlargement which joins the original roof to the roof of a rear or side extension, such development is permitted where no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse. The proposal before me does not join the original roof to the roof of a rear or side extension and it

clearly extends beyond the outside face of the rear external elevation of the original dwellinghouse. Consequently, it fails to be permitted under Class B and it is, effectively, a first floor rear extension.

5. Class A allows the enlargement, improvement or other alteration of a dwellinghouse. Such development is not permitted if it fails to meet any of several restrictions. In this case the extension fails to meet A.1(d) because the height of the eaves of the extension would exceed the height of the original eaves for the part of the house that is to be enlarged. Also, the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres and therefore restriction A.1(i) is not met. The development is also not permitted because it includes an alteration to part of the roof of the dwellinghouse (A.1(k)(iv)).
6. Furthermore, the development fails to meet condition A.3(c) of Class A because the enlarged part of the dwellinghouse has more than a single storey and the roof pitch of the enlarged part is not, so far as practicable, the same as the roof pitch of the original dwellinghouse.

Conclusion

7. 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 construction of a roof addition - outrigger - materials to match existing was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A A Phillips

INSPECTOR