



Appeal Decision

Site visit made on 21 May 2024

by C J Leigh BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/J0350/X/23/3328075

7 Brook Path, Slough, SL1 5ER

- 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 Mrs Aqsa Hoque against the decision of Slough Borough Council.
 - The application ref P/03927/005, 11 May 2023, was refused by notice dated 10 July 2023.
 - 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 proposed loft conversion and conversion of garage to habitable room.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Aqsa Hoque against Slough Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the Council's refusal to grant the LDC was well founded.

Reasons

4. The appeal relates to a two-storey semi-detached dwelling. The Council determined that the proposed hip to gable loft conversion with rear dormer fails to satisfy Schedule 2, Part 1, Class B to the Town and Country Planning General Permitted Development Order (as amended) (GPDO). This Class permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof, subject to limitations which proposals must adhere to benefit from such permitted development rights.
5. Paragraph B.1(d) states that development is not permitted by Class B if the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres in the case of a semi-detached house. Paragraph B.3 says that '*resulting roof space*' means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.
6. The proposed hip to gable conversion and rear dormer has a volume of 45.75 cubic metres. The Council consider the proposed works would exceed the 50 cubic metre limitation of Class B when combined with the volume of the roof on

an existing ground floor rear extension and on a front porch. The appellant considers those two extensions should not be included in the volume calculation of roof extensions, as she considers they are not enlargements to the 'original roof space' of the property.

7. The Council have provided drawings and OS plans that demonstrate to me the original house was built with a single storey rear projection, which mirrored that on the attached house. That original rear projection has been extended at some time in the past, which is clear from the submitted information and from observations on site; possibly there have been two extensions since I saw two distinct brick types to the extension, which are both different to the original house. The pitched roof to the past extension(s) continue the pitch and ridge of the original rear projection, with a slight step upwards. Thus, they clearly represent an extension to that original roof.
8. The Permitted development rights for householders: Technical Guidance provides guidance on interpretation of Paragraph B.1(d), and the volume limitation. This states that '*any previous enlargement to the original roof space in any part of the house must be included in this volume allowance... 'Original roof space' will be that roof space in the 'original building'*'.
9. It is clear to me that the 'original building' constitutes the main two storey element of the house and the single storey rear projection. The 'original roof space' is therefore the roofs on those two parts of the house. Neither the GPDO or the Technical Guidance give any indication that it is only the roof on a main two storey part of a house that should constitute 'original' roof space, and the appellant has not drawn my attention to any legislation, cases or guidance that indicate otherwise.
10. The rear extension(s) directly extend from the original roof space of the single storey projection which is part of the original building. Hence the roof space to the extension(s) have increased that original volume. Such works represent a previous enlargement to the original roof space in the house and so, in accordance with Paragraph B.1(d), must be included in the volume allowance under Class B.
11. The Council also say that a porch extension to the house constitutes a previous enlargement to the original roof space of the house, granted permission under ref. P/03927/000, and so should be included in any volume calculation. However, the roof on the porch does not touch any original roof space and so I cannot see it represents an 'enlargement' to that original roof space as termed by paragraph B.3 of the GPDO: it is an entirely separate structure.
12. The facts in this case justify taking a different approach to that adopted by my colleague Inspector in an appeal drawn to my attention (ref. APP/N2345/X/19/3233531). The GPDO and the Technical Guidance are clear in requiring there to have been an enlargement to the original roof space itself in order to take such volume into account. I do not consider it applicable if a past, separate extension has merely led to some overall total increase in roof space at a dwellinghouse. The porch is therefore not relevant to Paragraph B.1(d) as it was not an enlargement to the original roof space.
13. The evidence presented shows that the original roof space of the house has been enlarged through the rear extension(s). The proposals in this appeal would add 45.75 cubic metres to the original roof. I have not been provided

with a figure for the previous rear roof extension(s), nevertheless the submitted drawings, photographs and viewing the roof suggest that those extensions exceed what would be a remaining allowance of 4.25 cubic metres that would enable the proposals to fall within the 50 cubic metre limitation under Class B.

14. On the evidence before me and the balance of probabilities, the development would fail to meet the limitations under paragraph B.1(d) of Class B to the GPDO.
15. The proposed works include the conversion of the garage and two rooflights. The Council have raised no conflict with those proposals against any other limitations of the GPDO and I find no reason to disagree with those findings. However, it has not been demonstrated that the development as a whole for which an LDC is sought would not require planning permission, or that it would be granted planning permission by the GPDO.

Conclusion

16. For the reasons given above I conclude that the Council's refusal to grant a LDC 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

C J Leigh

INSPECTOR