



Appeal Decision

by **A U Ghafoor BSc (Hons), MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th July 2024

Appeal Ref: APP/T5720/X/23/3334778

148 Whatley Avenue, Wimbledon Chase, London, SW20 9NU

- 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 & Mrs Heales against the decision of the Council of the London Borough of Merton.
 - The application ref 23/P2609, dated 21 September 2023, was refused by notice dated 31 October 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is loft conversion to include a hip to gable enlargement with rear dormer and two front facing roof lights.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Given this appeal turns on the interpretation and application of law to the proposed development, there is no need to conduct a site visit. A representative of the Inspector has made a recommendation set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. Whether the Council's refusal to issue a certificate was well founded.

Reasons for the Recommendation

4. Essentially, the appellants argue the roof alteration volume of 40.86m³ calculated by the Council is incorrect, stating it is 39.18m³. They contend that the calculations of the hip to gable roof extension by means of including the bargeboard and soffit in the overall length of the hip to gable extension is wrong. There is a clear void, under this structure. However, it is part of the structure.
5. The appellants argue that, even if the gable bargeboard overhang and the dormer soffit dimensions are included, the proposal would have a cubic content of 39.62m³. Article 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("GPDO 2015") states that "cubic content" means the cubic content of a structure or building measured externally. The ridge, bargeboard and soffit are integral to and part and parcel of the roof structure. Measurements must be taken externally for the purposes of the cubic calculation.

6. For the purposes of Schedule 2, Part 1, Class B ("Class B") of the GPDO 2015 "resulting roof space" means the roof space as enlarged, considering any enlargement to the original roof space, whether permitted by this Class or not. To be permitted development any additional roof space created must not increase the volume of the original roof space of the house by more than 40 cubic metres for terraced houses.
7. The appellant argues that the additional volume is not part of the 'original' roof and is in fact a new roof, and therefore does not count towards the volumetric calculation. However, any previous enlargement to the original roof space in any part of the house must be included in this volume allowance. The meaning of 'original roof' is set out in the Technical Guidance (2019) Ministry of Communities, Housing and Local Government, page 6, as: ' "Original" - means a building as it existed on 1 July 1948 where it was built before that date, and as it was built if built after that date.' The evidence before me is that the first-floor extension was granted permission in 1983. It is clear that it is in addition to the original roof and continues its volume.
8. Consequently, it is correct to calculate the volume of the roof of the side extension and use this in the consideration of the overall volume of the proposal. For the reasons given above, I conclude that the proposal to enlarge the roof space would not comply with the GPDO 2015 Class B, criterion B.1(d).
9. Alterations to the roof of a house for loft conversions involving the creation of balconies are not permitted development. A balcony is understood to be a platform with a rail, balustrade, or parapet projecting outside an upper storey of a building. In this instance it appears there would be an external platform or landing with a balustrade that would prevent access to most of the platform. Nevertheless, the platform would project outside of an upper storey and the balustrade would allow some access to it. Consequently, the creation of a platform would fail to comply with the GPDO 2015, Class B, criteria B.1(e).

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of loft conversion to include a hip to gable enlargement with rear dormer and two front facing roof lights, 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).

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

A U Ghafoor

INSPECTOR