



Appeal Decision

Site visit made on 25 June 2024

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 19 August 2024

Appeal Ref: APP/D1835/X/23/3331660

53 Stanley Road, Worcester WR5 1BB

- 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. F Begum Hussain against the decision of Worcester City Council.
 - The application ref 23/00517/CLPU, dated 16 June 2023, was refused by notice dated 31 July 2023.
 - The application was made under section 191(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 a loft conversion.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The appellant's agent was notified of my intended site visit to view the appeal property on the morning of 25 June 2024. When I attended the property, there was no one to provide me with access to view the development at the rear of the property. Nevertheless, and as the planning merits of the development do not fall to be considered, I am satisfied that the evidence provided by the parties is sufficient for the lawfulness of the development to be properly considered on the papers alone.
3. The application is for work that has already been undertaken and has since been altered. The drawing which accompanied the LDC application is numbered P002 entitled 'Proposed Plan' and dated 16 June 2023. Neither the building work as originally constructed or that which has since been altered complies with drawing number P002 dated 16 June 2023.
4. An enforcement notice alleging a breach of planning control consisting of the construction of a rear second floor/third storey extension (the second storey extension) and rear box dormer (dormer) on the dwellinghouse was issued on 16 May 2023. The notice requires the removal of the second floor/third storey upward extension from the rear outrigger and for the reinstatement of the former roof profile. The notice does not require the removal of the dormer on the rear elevation of the main roof slope. The notice came into effect on 16 June 2023 with a six-month compliance period. To date, the notice has not been complied with and the development remains in place.

Main issue

5. The main issue in consideration of the appeal is whether the Council's refusal to issue an LDC was well-founded. This turns on whether at the time of the LDC application the development would have constituted permitted development by virtue of Article 3 and Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

6. Article 3 of the GPDO grants permission for classes of development described as permitted development in Schedule 2 to the Order. Part 1 of Schedule 2 deals with development within the curtilage of a dwellinghouse. Class A specifically addresses the enlargement, improvement or other alteration of a dwellinghouse and Class B of Part 1 specifically addresses enlargements consisting of additions or alterations to the roof.
7. 53 Stanley Road is a semi-detached two storey house. Projecting out at right angles from the main rear elevation of the house is a two storey outrigger with a mono-pitch roof. From the drawings, the ridge of the outrigger's roof intersects the rear slope of the main rear roof approximately at mid-point between the ridge and eaves. The original eaves of the outrigger's roof are at a lower level than the main roof and connect with the rear wall of the house at a point roughly level with the upper part of the first floor rear window.
8. The development as proposed comprises a dormer spanning the entire width of the main roof slope to the rear and joined to a further dormer above the roof of the outrigger spanning the whole roof such that the extension would form an L-shape. The height of both sections of the dormer extension are shown as being level with the highest part of the main roof.
9. While the plans show something that might be permitted development, what has been built differs materially. Furthermore, the planning history, including the enforcement notice which is against a materially different development, and which has not been appealed, indicates that on the balance of probabilities, what was built before the alterations took place was not permitted development, and hence was unlawful. In that case the building does not benefit from permitted development rights and would not until the notice has been complied with.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude that the Council's decision to refuse to grant an LDC for a loft conversion was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act as amended.

S A Hanson

INSPECTOR