

Appeal Decision

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 22 August 2024

Appeal Ref: APP/W5780/X/23/3330185

Land at 71 Overton Drive, Wanstead, London, E11 2LW

- 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 Ms Henrietta De Souza against the decision of the Council of the London Borough of Redbridge.
 - The application ref 0304/23, dated 26 January 2023, was refused by a notice dated 15 June 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 hip to gable loft conversion with rear dormer.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the application form. I note that the Council's decision describes the proposal to include the removal of chimney, new window to gable end and three front roof lights. It is clear from the application plans that those works are included in the appellant's proposed hip to gable loft conversion with rear dormer and have thus formed part of my consideration of the proposed development the subject of this appeal.
3. Considering the matters at appeal it was not necessary to visit the appeal premises. I have therefore made my decision based on the representations and supporting information submitted by the main parties as a matter of course as part of the application and appeal process.

Reasons

4. Section 192(2) of the Town and Country Planning Act 1990, as amended (the Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the

proposed development are not relevant in this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful use or Development (LDC) was well-founded.

5. The proposed development is for an alteration of a hipped roof to form a gable and the construction of a rear dormer. The proposal would result in an increase in the volume of the roof space and would be an enlargement of the dwellinghouse. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted by Class B, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), subject to the restrictions set out in B.1 and conditions at B.2.
6. The local planning authority contend that the development does not comply with the restriction set out in Class B.1 (d) of the GPDO. Based on the Council's calculation, the resulting roof space of the proposed development would exceed the cubic content of the original roof space by 49.43 cubic metres. Class B.1 (d) advises 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 (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case.
7. The appellant does not dispute that the resulting roof space would exceed the cubic content of the original roof space by 49.43 cubic metres. However, it is her view that the property has the character and appearance of a semi-detached property and should not be treated as a terrace for the purposes of a loft conversion.
8. The Ministry of Housing, Communities and Local Government publication, *Permitted development rights for householders: Technical Guidance*, dated September 2019 (TG), defines, for the purposes of the GPDO, a terrace house as "*a dwellinghouse situated in a row of 3 or more dwellinghouses used or designed for use as single dwellings, where*
 - (a) *it shares a party wall with, or has a main wall adjoining the main wall of the dwellinghouse on either side or*
 - (b) *it is at the end of a row, it shares a party wall with or has a main wall adjoining the main wall of a dwellinghouse which fulfils the requirements of sub-paragraph (a).*"
9. No 71 Overton Drive is in use as a single dwelling and forms part of a short row of three dwellinghouses. It is at the end of the row and shares a party wall with No 69 Overton Road, which, as required by sub-paragraph (a), also shares a party wall with another dwelling, No 67 Overton Road. Consequently, the appeal property is a terrace dwelling for the purposes of the GPDO.
10. I understand that the appeal property forms part of a short terrace of only three properties. Being at the end of that terrace, the dwellinghouse only shares a party wall with one other dwelling, as would be the case with a semi-detached dwelling. However, the adjoining property shares a party wall with the dwellinghouse on either side of it, such that, as a whole the three dwellinghouses form a terrace as defined by the TG. Dwellinghouses which

are at the end of a terrace row are clearly included in that definition and rightly have the same permitted development rights as all other dwellinghouses within a terrace.

11. Thus, the appeal dwelling is a terrace house and the proposed extensions would add more than 40 cubic metres of volume to the roof space. The extensions fall to be considered under, but do not comply with, paragraph B.1 (d) of Class B, Part 1, Schedule 2, Article 3 of the GPDO.
12. I conclude that, for the reasons given above, the construction of the proposed extensions would not have been lawful on the date of the LDC application, because permission was not granted by Article 3, Schedule 2, Part 1, Class B of the GPDO. The Council's decision to refuse to grant a LDC was well-founded and the appeal must fail. I will exercise accordingly the powers transferred to me in s195(3) of the Act.

Elizabeth Pleasant

INSPECTOR