



Appeal Decision

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/B1930/X/23/3328290

28 Salisbury Avenue, ST. ALBANS, AL1 4TU

- 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 and Mrs D and S Fisher against the decision of St Albans City Council.
 - The application ref 5/23/0958, dated 3 May 2023, was refused by notice dated 27 July 2023.
 - The application was made under section 192(1)(a) 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 proposed dormer extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

1. As the determination of the appeal depends on matters of law, a site inspection is unnecessary. The onus of proof rests with the appellant and the level of proof is on the balance of probabilities.
2. For the avoidance of doubt I should explain that the planning merits of any use or operations are not relevant and not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. I consider the main issue to be whether the Council's decision to refuse to grant an LDC was well founded. In particular this depends upon the interpretation of B.2 (b)(ii) of Class B Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO).

Reasons

4. The proposed dormer is to the rear of a two storey dwelling sitting on a catslide roof and adjoining the flank wall of a first floor outrigger of the original building. The dormer would be set in 250mm from the eaves which is measured along the roof slope from the outside edge of the eaves.
5. The Council has assessed the proposed development against the conditions and limitations of the GPDO. They have concluded that the development satisfies

these other than for B.2(b)(ii) which requires that the enlargement must be constructed so that other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse.

6. As the enlargement extends beyond the outside face of the flank of the side wall of the original dwellinghouse, the Council has concluded that the proposal is not permitted development.
7. In brief, the appellant asserts that the location is within the roofscape and there is no distinction or separation provided by the guidance¹ which seeks to redefine part of the original roof where it sits at a lower or higher vantage point than other parts of it.
8. It is clear to me from a straight forward reading of the GDPO that the relevant condition relates to any external wall and does not differentiate between parts of the original roof which are at higher or lower vantage points. The proposed dormer would extend off the first floor outrigger which forms part of a two story element of the original dwelling, as shown by the submitted plans.
9. The proposed development would not be permitted development.

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of a proposed dormer extension 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)

P N Jarratt

INSPECTOR

¹ MoHCLG Permitted Development Rights for Householders Technical Guidance September 2019