



Appeal Decision

Site visit made on 20 November 2024

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/N5660/C/23/3315343

77 Woodbourne Avenue, London SW16 1UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Iqbal Ali Khan against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice was issued on 1 December 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a full width/height dormer roof extension onto the rear roof slope of the premises ('the unauthorised rear roof extension').
 - The requirements of the notice are to:
 - Either:
 - Remove the unauthorised roof extension from the rear roof slope of the premises and reinstate the roof as existed prior to the breach of planning control – and remove all resultant debris from the premises;
 - Or:
 - Reinstate eaves on the rear elevation of the premises (to match those which existed originally in terms of fascia, soffit, roof tiles and eaves) with the edge of the unauthorised rear roof extension no less than 0.2 metres from the outside edge of the reinstated eaves – as required by condition (b)(i) (aa) and (bb) imposed by Class B of Part 1 of the General Permitted Development Order 2015 (as amended).
 - The period for compliance is four months after this notice takes effect.
 - The appeal is proceeding on ground (c) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Formal decision

1. The appeal is dismissed and the enforcement notice is upheld.

Background

2. In May 2021 a lawful development certificate (LDC) was issued under s192 of the 1990 Act (as amended) for the erection of a dormer roof extension to the dwelling's rear roof slope. Although full width, the approved plans show the extension would be set down from the ridge and also set in from the eaves. As the Council considered that the development would satisfy the various provisions of Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended the application was successful.
3. A roof extension was subsequently erected but the development was inconsistent with that shown on the approved plans. Instead, a third-storey, flush with the rear wall directly below was constructed and the Council saw fit to issue an enforcement notice. This notice is the subject of the appeal lodged.

The Appeal on ground (c)

4. An appeal on ground (c) is that the appellant accepts that the development described as the 'alleged' breach has occurred but that no planning permission is required to lawfully retain the development carried out.
5. The Council's case is that the roof enlargement, as constructed, falls outside the parameters of Class B, Part 1, Schedule 2 of the GPDO and is overly large and bulky so as to dominate the rear roof slope.
6. Class B, B.2(b)(i)(aa & bb) says that the enlargement shall be constructed so that the eaves of the original roof are maintained or reinstated, and that the edge of the enlargement closest to the eaves of the original roof shall, so far as is practicable, be not less than 0.2m from the eaves, measured along the roof slope from the outside edge of the eaves.
7. To facilitate the development carried out the eaves have been removed and, as mentioned, a vertical rear wall flush with the outside wall directly below, creating a third-storey, has resulted. However, to mask this arrangement a line of slanted roof tiles have been installed across the base of the extension's rear wall. This is an apparent attempt to give the impression of the required set back. The said roof tiles overhang the rear wall below and there has been no reinstatement of the eaves.
8. Accordingly, the required separation of 0.2m has not and cannot be achieved. Further, the external materials used in the construction of the roof extension are starkly different to those of the existing building. This is also at odds with Class B's requirements.
9. The development thereby falls outside the parameters of Class B and it requires the benefit of planning permission.
10. The appeal on ground (c) therefore fails.

Timothy C King

INSPECTOR