



Appeal Decision

Site visit made on 10 December 2024

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2025

Appeal Ref: APP/E5330/X/23/3333626

14 Ravine Grove, Plumstead, London SE18 2NE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr William Gottelier against the decision of Royal Borough of Greenwich.
 - The application ref 23/2428/CP, dated 20 July 2023, was refused by notice dated 15 September 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 described as "Rear extension and associated alterations to a terraced house."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council changed the description of what is proposed on its decision notice as "a single storey rear extension, a single storey rear infill extension, 3 windows to the rear roof slope, 1 window to the front roof slope and associated alterations to a terraced house. (Amended Description)." I have used the description from the application form which I am normally obliged to do as I have not seen the agreement to the change of description.

Main Issue

3. The main issue is whether the Council's decision to refuse the LDC was well founded. The onus of proof is upon the appellant and the standard of proof is on the balance of probabilities. Planning merits are not relevant.

Reasons

4. The plans show a number of alterations as well as the infill and rear extensions. The only element of the plans that the Council considers would not be permitted development under the provisions of Article 3, Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) is the infill part of the extension. Class A permits the enlargement, improvement or any other alterations of a dwelling subject to conditions and limitations.
5. The dispute in this case relates to interpretation of Class A, paragraph A.2. which concerns dwellinghouses on article 2(3) land that being, amongst other things, land within a Conservation Area (CA). The site is within the Plumstead

Common CA. Paragraph A.2. states that development is not permitted if, "(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse."

6. The dwelling at the appeal site has a rear outrigger and I have no evidence to demonstrate that any part of that, is not part of the original dwellinghouse. The outrigger is narrower than the main part of the house. In effect the house therefore has a stepped footprint with a gap between the outrigger and the side boundary with the adjoining property.
7. The rear outrigger therefore has a wall which faces towards the side boundary of the site with No 12 Ravine Grove. There is no definition within the GPDO of what should be considered the side elevation for its purposes. It is generally necessary therefore to consider the ordinary meaning of words where there is no statutory definition. However, in order to assist with this and other matters, the government published the Permitted Development Rights for Householders - Technical Guidance, in September 2019 (the technical guidance). The technical guidance provides a common-sense definition of side elevation as "any wall that cannot be identified as being a front wall or a rear wall." The proposed extension would extend beyond the side elevation of the outrigger and would not therefore be permitted development.
8. Care has to be taken when using the technical guidance which is meant to simplify matters and is not in itself legislation. The GPDO as the statutory instrument remains the primary document for consideration. I can understand that an ambiguity arises when considering the advice on page 23 of the technical guidance relating to "rear and side extensions" particularly its reference to "article 2(3)" land at paragraph 20)(i). Where a site is on "article 2(3)" land, paragraph A.2. applies as I have set out above which does not allow for any extensions beyond a wall forming a side elevation. Furthermore, the way in which other Councils may have considered the relevant parts of the GPDO are not relevant to my consideration of this appeal.

Conclusion

9. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a rear extension and associated alterations to a terraced house 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.

Andy Harwood

INSPECTOR