



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 14 February 2025

Appeal Ref: APP/L5810/X/24/3339825

2 Stonehill Road, East Sheen, Richmond upon Thames, London SW14 8RW

- 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 Emma OBrien against the decision of Richmond Upon Thames London Borough Council.
 - The application ref 24/0002/PS192, dated 30 December 2023, was refused by notice dated 27 February 2024.
 - 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 a 'Loft Extension including hip to gable to both sides and rear dormer and front rooflights'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the proposal as 'Loft extension within permitted development'. However, the description used by the Council in its officer report, and which is used on its decision notice, more accurately describes the scheme.
3. The outcome of the appeal is not based on assessing the planning merits of the scheme and how its visual appearance may affect, for example, the character and appearance of the area. It is based on considering plans and evidence about a scheme which is to be built in the context of the conditions and limitations set by the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). As such, there was no need to see the appeal building. I have therefore determined the appeal without a site visit. Neither main party has been prejudiced by this course of action.
4. In lawful development appeals, the burden of proof rests firmly with the appellant. The test of the evidence is the balance of probability.

Main Issue

5. The main issue is whether the Council's refusal to grant a LDC was well founded.

Reasons

6. Schedule 2, Part 1, Class B of the GPDO grants planning permission for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The proposal would involve replacing the existing two side hipped roofs with gable ends and the construction of a large flat box dormer that would occupy a significant part of the rear roof. New rooflights would be added to the front roof slope. The Council refused the application on the basis that the extent of the

works would amount to demolition and re-construction of the roof and thus go beyond the planning permission granted by the GPDO to add to or alter the roof of the dwellinghouse. The GPDO does not define what may constitute additions or alterations, but it seems to me that the works must not comprise reconstruction by demolition and rebuilding.

7. In this case, the two side roofs would have to be removed. Also, constructing the sizeable rear dormer means that a significant extent, if not all for practical construction reasons, of the main rear roof would disappear as well. Furthermore, in carrying out such extensive works to the rest of the roof, the front roof would require significant works to become a fully sloped roof to meet the new gable ends. It also appears that to maintain the current ridge height, the front roof slope would alter. Even if this is not the case, I cannot realistically see that any of the existing front roof would be retained and supported for the duration of the construction works. The appellant has pointed out that the property needs extensive restoration work, and the original roof may need fully replacing anyway.
8. All in all, the proposal means an entire new roof is, as a matter of fact and degree, probable. That development would, in my view, fall to be reconstruction of the roof by demolition and rebuilding. It would not therefore be development granted planning permission by Schedule 2, Part 1, Class B of the GPDO. The appellant has not provided any facts, such as construction details or a schedule of works, that could reasonably rebut the Council's reason for refusing the LDC application.
9. I have read the Council reports where similarly described schemes at Temple Sheen were granted, including at the appellant's former home. However, other than the reports, I do not have any substantive details such as detailed drawings or written descriptions of the proposed works that led the Council to grant LDCs in those other cases. I cannot therefore draw any meaningful comparisons with the current appeal scheme, other than that the appearance of all schemes may be roughly similar. I also do not have any significant details of the development referred to at 144 Buckingham Road. In any event, the outcome of each appeal depends on its individual circumstances.
10. I have also read the appellant's comments on the other developments referred to by the Council. In some of those, appeals were dismissed for what would appear to be developments similar, at least mostly, to the current proposal. Nevertheless, I again do not have the details behind those schemes such as the submitted plans to assess their relevance to the current appeal. I have therefore based my decision on the facts of the case.
11. For the reasons given, I find that the appellant has not discharged the burden of proof that rests on them. In my view, the development applied for would not be permitted development. Therefore, the Council's refusal to grant a certificate of lawful development in respect of the appeal scheme was well founded. This means the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Gareth Symons

INSPECTOR