



Appeal Decision

Site visit made on 18 March 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/G5180/X/23/3327721
19 Arthur Road, Biggin Hill TN16 3DD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development [hereafter referred to as "LDC"].
 - The appeal is made by Sive Cavannah of SimplyEasy Refurbs Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/03841/PLUD, dated 29 September 2022 was refused by notice dated 29 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 described as '*2 side facing dormers plus change hip roof at rear to a gable end.*'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision not to issue a LDC was well founded.

Reasons

3. In an appeal under s195 of the Act against the refusal of a LDC the planning merits and/or impacts of the development applied for do not fall to be considered. Neither can I take into account any personal circumstances. Instead, the decision is based strictly on the evidential facts and on relevant planning law. The burden of proof is on the appellant, and I shall reach my decision on the various evidence before me.
4. The matter to be decided upon is whether the development, if carried out at the date of the application ie 29 September 2022, would have been lawful. The determination is to be made against the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO) as subsisted at the time of the application.
5. I am determining the 'proposed' development, which has already been carried out, in accordance with the submitted plans; notably drawing nos A04, A06 and A07.
6. The GPDO's Schedule 2, Part 1, Class B (additions etc to the roof of a dwellinghouse), under B.1(c) says that development is not permitted if any part of the dwellinghouse would, as a result of the works, extend beyond the

plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

7. In paragraph 1.7 of the appellant's statement of case suggests that there is some confusion as to which of the dwelling's facades the Council considers to be the principal elevation, although the Council does qualify itself in this regard in its Written Statement. The term 'principal elevation' is not defined in the GPDO. However, its accompanying Technical Guidance document TG) says that in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house.
8. The TG continues by saying that the principal elevation will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house and that usually, but not exclusively, the principal elevation will be understood to be the front of the house. It goes on to indicate that there will only be one principal elevation on a house and, importantly here, where there are two facades which may have the character of a principal elevation a view will need to be taken as to which of these is such.
9. Before and after my site visit I walked along Arthur Road and observed that the dwellings on both sides of the road are of varying age, sizes and designs. Many are set back from the back edge of the footway. Nonetheless, a common factor is that the respective principal elevations would appear to be those which faces towards Arthur Road itself.
10. The appeal dwelling is, though, open to some interpretation as, due to its lengthy depth, a two-storey shallow projection to its flank, facing towards the top end of the driveway, contains the 'front' entrance door and an immediate stone overhang shelter. The appellant considers this to be the principal elevation. In contrast, the elevation facing the street, is narrower in width but contains two substantial windows, one at ground floor and one at first floor level, which clearly light two of the dwelling's main rooms.
11. Having weighed up the various factors involved I am satisfied that the shorter façade, here constitutes the principal elevation. The fact that it incorporates two prominent windows, is articulated in appearance and, importantly, faces towards the highway, allows for such an interpretation.
12. The development itself comprises two, identical, flat-roofed side dormers which extend from the start of the front, hip-ended, central ridge and run alongside to the rear elevation which faces the back garden. The particular point of contention arises from the fact that the said side projection, at the time the application was made, was overlain by a small gabled roof whose central ridge cut into the flank's roof slope.
13. Following the works being carried out, the relevant side dormer's tile-hung wall has cut in and truncated this small gable and thereby, although set back from the dwelling's frontage, the development does extend beyond the plane of the principal elevation's roof slope.
14. None of the other Class B provisos are disputed, but the fact that the development fails to satisfy the said requirement means that it cannot

constitute permitted development. Accordingly, it requires the benefit of planning permission.

15. Notwithstanding the matter of lawfulness the appellant, in the representations made, requests that I should consider that the 'technical breach' is de minimis and therefore should be disregarded. I can understand the frustration here but, given the nature of the s192 application made, it is not open to me to make such a judgement. The parameters of Class B are clearly set out.
16. Finally, the appellant has indicated that the development could be modified in order to bring it within the limitations of permitted development. It would, though, be beyond my remit to comment on such and, therefore, any specific proposals to this end must remain a matter between the appellant and the Council, and new plans should be drawn up, accordingly.
17. For the reasons given above I conclude that, on the evidence available, the Council's decision was well founded and the appeal should not succeed. Accordingly, I shall exercise the powers transferred to me under section 195(3) of the 1990 Act, as amended.

Timothy C King

INSPECTOR