



Appeal Decision

Site visit made on 26 February 2019

by Sukie Tamplin DipTP PgDip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2019

Appeal Ref: APP/Q1445/X/18/3209802

20 Leighton Road, Hove, BN3 7AD

- 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 (LDC).
- The appeal is made by Mrs Katerina Sherbourne against the decision of Brighton & Hove City Council.
- The application Ref BH2018/01876, dated 8 June 2018, was refused by notice dated 2 August 2018.
- 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 loft conversion with rear dormer.

Summary of Decision: The appeal is dismissed.

Reasons

1. Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) says that, subject to various limitations, certain alterations and extensions to dwellinghouses have deemed consent. This deemed consent is often described as 'permitted development'. Class B of Part 1 sets out the limitations and conditions that apply in respect of the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Class A similarly says that the enlargement, improvement or other alteration of a dwellinghouse is permitted development subject to specified limitations.
2. The application was made under S192 of the Town and Country Planning Act 1990 as amended (the Act) and sought to establish whether the proposed loft conversion with rear dormers is development permitted by the GPDO and thus does not require an express grant of planning permission.
3. I find the description of the development on the application form imprecise and prefer the description used by both parties in their submissions. This describes the development as an 'L-shaped dormer' and I shall use this in my decision.
4. The semi-detached house has a main roof slope parallel to the road and what is probably an original 2-storey 'outrigger' or rear wing. The height of the outrigger is less than the main roof and correspondingly its eaves are also lower. The plans show the proposed flat roofed L-shaped dormer extending across the rear of the main roof and onto the outrigger at the same floor level. The issue between the parties is whether the L-shaped dormer is solely an

addition to the roof and thus falls within Class B or must also be considered under Class A of the GPDO.

5. The Council says that the outrigger element of the extension is not an addition or alteration to its roof because it relies partly on an upward extension of the main rear elevation of the house and extends beyond the outer face of a wall of the original house. Accordingly, it says it must also be considered under Class A; the appellant disagrees.
6. The publication *Permitted development for householders: Technical Guidance* as amended April 2017 (PDTG)¹, provides guidance on the interpretation of the GPDO and anticipates, in the context of Class B, that where the enlarged part of the roof joins the original roof of a rear or side extension (generally referred to as an L-shaped dormer) it is permitted under that Class. But in the circumstances of this appeal the construction of the anticipated works necessitate works other than to the roof. The PDTG also says that certain extensions, such as proposals to extend at the rear of a house, may need to be considered under the provisions of more than one Class of the GPDO. In this appeal the proposed L-shaped dormer also includes other works, in particular the upward extension of the rear wall and development beyond its outer face and cannot simply be described as an extension or alteration to the roof.
7. Consequently, the L-shaped dormer is also subject to the limitations of Class A of the GPDO. In coming to this conclusion, I have taken account of the argument that such dormers at other dwellings have been previously classed as GPDO Class B development by the Council. But I do not know the full circumstances of the examples relied upon by the appellant and this appeal must turn on its own facts.
8. Class A permitted development is limited as set out in the GPDO. These limitations include:
 - A.1 (i) the enlarged part of the dwelling house would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres.
9. In the appeal before me the rear wall would be extended to support the L-shaped dormer, and this is firstly within 2 m of the boundary and secondly the height of the eaves would be more than 3m. Thus, the proposed works to the dwelling would exceed the limitations of Class A and thus cannot benefit from the deemed consent conferred by the GPDO.

Decision

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed dormer was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me by section 195(3) of the 1990 Act as amended and uphold that decision.

Sukie Tamplin

INSPECTOR

¹ *Permitted development for householders: Technical Guidance* Department for Communities and Local Government: Updated April 2017: