
Appeal Decision

Site visit made on 10 May 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 5th June 2024

Appeal Ref: APP/B4215/X/24/3338345

23 Mauldeth Road West, Withington, Manchester M20 3EQ

- The appeal is made by Steve Farmiloe under section 195 of the Town and Country Planning Act 1990 against a refusal by Manchester City Council to grant a lawful development certificate.
 - The application Ref: 137917/LP/2023, dated 24 August 2023, was refused by notice dated 15 January 2024.
 - The application was made under section 192(1)(b).
 - The proposed development for which the certificate is sought is described on the application form as "Dormers to rear of property".
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Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the proposed development at the time of the application. The planning merits of the development are not relevant to the appeal and there is no planning application before me.
 3. At the time of the application the property was an unaltered two-storey, end-terrace, pitched-roof house. It had a two-storey outrigger with a side-facing mono-pitched roof. The outrigger had a ridge height lower than the ridge of the house roof and an eaves height lower than the eaves of the house.
 4. The proposed development was described by the Council in the decision notice as "Enlargement of dwellinghouse with the installation of a rear dormer". The application was refused by the Council for the following reason: -

"1) Refuse on the basis that the proposed rear dormer as shown on drawing titled "PROPOSED LOFT CONVERSION" does not constitute permitted development as it would fail to meet the requirements of Part 1, Schedule 2, Class A.1 (f)(i), A.1(i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)."
 5. The development had been completed in accordance with the application drawing by the time of my visit and I was therefore able to view it 'as built'. It is a level, flat-roofed, structure with vertical walls clad with hanging tiles. The
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height of its roof is a few centimetres lower than the ridge of the house roof. It takes up most of the width of the house roof and has replaced the whole of the roof of the outrigger, apart from the guttering at the side and a narrow margin of tiling over the wall at the far edge. It has increased the height of the outrigger by almost 2.5m at the side and by nearly 0.5m where its roof used to join the roof of the adjoining property's outrigger.

6. The development has been carried out as a single building operation and it is not possible to separate out parts of it for assessment. The determining factor is whether the development as a whole is permitted by Article 3(1) and Schedule 2, Part 1, Class A and/or Class B of the Order or is not permitted development at all.
7. Class B permits "The enlargement of a dwellinghouse consisting of an addition or alteration to its roof". The development is not authorised by Class B, since the outrigger's roof has not been added to or altered: as a matter of fact and degree it has been replaced by a third storey.
8. Class A permits "The enlargement, improvement or other alteration of a dwellinghouse", but this is not permitted if any of the provisions of paragraph A.1 of the Class would not be met. The Council's decision refers to the provisions of sub-paragraphs (f) and (i) of paragraph A.1. [sub-paragraph (g) not being applicable in the absence of prior approval].
9. The enlargement does not comply with sub-paragraph (f)(i), since it extends beyond the rear wall of the house by more than 3m, and it does not comply with sub-paragraph (f)(ii), since it exceeds 4m in height (measured from ground level in accordance with Article 2(2) of the Order). It does not comply with sub-paragraph (i), since it is within 2m of the boundary of the curtilage of the house and the height of its eaves exceeds 3m above ground level.
10. The appellant has drawn attention to other developments of a similar description that have been carried out in the City and in other parts of Greater Manchester. The Council have explained that the development in the City for which a certificate was granted had a different design and that the other examples referred to in the City are now being investigated. The example in Sale for which a certificate was granted by Trafford Borough Council appears to be very similar to the development in this appeal, but the Council's decision notice does not mention Class A. I have applied the provisions of the Order to the particular development involved in this appeal and have concluded that it is not permitted development for the reasons given above.
11. I am satisfied that the Council's refusal of the application is well-founded. Planning permission is required and the appeal has therefore been dismissed.

D.A.Hainsworth

INSPECTOR