
Appeal Decision

Site visit made on 30 July 2014

by Wendy McKay LLB (Hons) Solicitor (Non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 September 2014

Appeal Ref: APP/J1915/X/13/2207465

Pondcroft, Rush Green, Hertford, SG13 7SB

- 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 Mr and Mrs K and D Watkiss against the decision of the East Hertfordshire District Council.
- The application Ref 3/13/1148/CL, dated 27 June 2013, was refused by notice dated 21 August 2013.
- 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 proposed triple garage.

Summary of Decision: The appeal is dismissed.

Application for costs

1. An application for costs was made by Mr and Mrs K and D Watkiss against the East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well-founded.

Reasons

3. The proposed triple garage would be positioned to the west of the residential property known as Pondcroft. The building would contain space for three cars. The roof would be hipped at either end with a centrally placed projecting gable on the northern (front) elevation.
4. The Appellants submit that the building could be erected as permitted development pursuant to Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (as amended¹). The Council contends that the development would not meet one of the limitations of Class E, namely, E.1 (d) (i) which requires that the height of the building would not exceed 4m in the case of a building with a dual-pitched roof.

¹ See The Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008

5. The Appellants have referred to the Department for Communities and Local Government (DCLG) document 'Permitted Development for Householders: Technical Guidance'. This states that: *"The height limit on a "dual-pitched roof" of four metres should also be applied to buildings that have "hipped" roofs (slopes on all four sides)"*.
6. The Appellants submit that the Council has been inconsistent in its approach to such cases and draw support from other examples in the district. In 2010, an LDC application was refused for the erection of an 'L' shaped outbuilding at a property known as The Downs, 73 Downfield Road, Hertford Heath on the basis that it did not have a dual-pitched roof. That building had a hipped roof over the garage element and a projecting gable over the store, at right angles to the garage. The Appellants indicate that the gabled projection of that building was significantly greater than that which is proposed at the appeal property.
7. The appeal against that refusal was subsequently allowed². The decision-maker stated: *"The 'pitch' of a roof or the term 'dual-pitch' is not defined in the Order. I understand the thrust of the appellant's case that the 4m height restriction was designed to ensure the outbuildings are not excessively intrusive in terms of their overall height, whereas the Council focus on the number of roof pitches."*
8. The decision-maker applied the Technical Guidance and concluded that: *"In this case, the slopes rise to a central ridge from which measurements of the height of the building can be taken"*. An LDC was issued on the basis that the outbuilding complied with the Class E.1 (d) (i) height limitation for a building with a dual-pitched roof.
9. There have also been two LDC applications made in respect of a property known as Little Hocketts, Burnham Green. The first application concerned a proposed detached outbuilding which the Council decided did not have a dual-pitched roof. The subsequent appeal against the refusal of that application was dismissed³. The Inspector considered that the building would have two parts with the roof comprising ten tiled slopes, two tiled and glazed slopes and an element of flat roof. She concluded that the proposed roof, which would comprise a number of different slopes well in excess of four, would be neither dual-pitched nor hipped. As such, it would not be *'a building with a dual-pitched roof'*, as permitted by Class E.
10. The second application for Little Hocketts involved a modified design and roof form. This was principally an 'L' shaped building with a single brick width gable projection at its south-eastern end. The Council granted an LDC with the officer concluding that the building had a dual-pitched roof, where the roof is regular in appearance and rises to an apex. The Appellants submit that the south-east elevation of that structure resembles the appeal proposal.
11. In the light of these various decisions, the Appellants contend that the proposed triple garage would have slopes that would rise to a common central ridge from which measurements of the height of the building could be taken. The central single brick gabled projection would run at right angles to the ridge but without breaking either its line or height. They submit that since the height

² Appeal Reference APP/J1915/X/10/2122330

³ Appeal Reference APP/J1915/X/11/2161385

does not exceed 4m, it would comply with the Class E limitation for a building with a dual-pitched roof.

12. The Council does not accept that there has been any inconsistency in its decision-making. The Council's determination of the first application made in respect of Little Hocketts was supported by the Inspector on appeal. That decision emphasised that permitted development rights are granted for a building with a single dual-pitched roof. The Inspector also distinguished the situation where an 'L' shaped building might have several slopes yet remain a 'dual-pitched' structure. The Council explains that in the current case, the building would not have an 'L' shaped roof form. The gable would project at right angles to the main ridge and it would not have a wholly hipped roof form. It would comprise both hipped and gable roof elements.
13. The Appellants acknowledge that the Inspector's interpretation of the GPDO in relation to the first Little Hocketts application was reasonable and justified. Neither the 'L' shaped proposal granted on appeal for 73 Downfield Road, nor the approved second application at Little Hocketts included a centrally positioned gable. The Appellants point out that the latter proposal had a small projecting gable at one end. In terms of its impact on the form of the roof, I do not consider that the appeal scheme gable can be regarded as small or insubstantial. It seems to me that the appeal proposal is materially different from the other schemes to which the Appellants have referred. The decisions in these cases can readily be distinguished from the appeal proposal given the significant and obvious differences in the various roof designs. The decision-maker in the 73 Downfield Road case, applied the GPDO and the Technical Guidance to the facts of that particular case, and I must do likewise in determining this appeal.
14. The Technical Guidance provides an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances. It explains that the guide cannot cover all possible situations that might arise. The guidance does not specifically deal with the scenario under consideration in this appeal where both a hipped and gable roof form has been introduced. In this case, the proposed roof would, as a matter of fact, comprise more than four different slopes. Whilst the guide indicates that "hipped" roofs (slopes on all four sides) fall within the definition of "dual-pitched" roofs, that is not the situation in this instance. I do not consider that the meaning of "dual-pitched" roofs can be stretched to include schemes which incorporate centrally positioned gables in this way. The Appellants speculate as to what might be the position if the front projecting bay were to be moved sideways to a position above either of the end garages. However, that is not a matter that is before me to determine.
15. Since the roof form is not "dual-pitched" and the building exceeds the other height limitations set out in Class E.1 (d), it would not be permitted development.

Formal Conclusions

16. 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 proposed triple garage 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.

Formal Decision

17. The appeal is dismissed.

Wendy McKay

INSPECTOR