



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Mr S Beck

Proposal:
Conversion of roof space to habitable use to include a rear dormer with Juliet balcony, 2 front roof lights and conversion of roof from hip to gable end with new gable end window
(Application for a Certificate of Lawful Development for a Proposed Development)

Appeal Site:
128 Pine Gardens
Ruislip

1. Introduction

1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against its refusal to grant a Certificate of Lawfulness of Proposed Development for the “Conversion of roof space to habitable use to include a rear dormer with Juliet balcony, 2 front roof lights and conversion of roof from hip to gable end with new gable end window (Application for a Certificate of Lawful Development for a Proposed Development)”.

1.2 The LPA refused a Certificate of Lawfulness on 01-12-2022 for the following reason (as stated on the decision notice):

The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. because the proposed development would encroach on the neighbouring property and not remain within the curtilage of the dwellinghouse.

1.3 The LPA’s case is set out in the planning officer’s delegated report, which should be read in conjunction with this statement. A copy of the delegated report has been sent to PINS with the Appeal Questionnaire.

1.4 This statement will not repeat the delegated report and will focus on addressing matters raised in the Appellant’s statement of case titled ‘Planning Appeal’.

2. LPA Comments on Appellant’s Statement of Case

2.1 The proposed drawing submitted with the application (ref.22/128PG/02A) demonstrates that the rear roof dormer extension would extend beyond its boundary with the roof of No. 126 Pine Gardens. Accordingly, the LPA has determined that the development, in its entirety, would not be within the curtilage of the dwellinghouse and, therefore, does not satisfy the fundamental GPDO criteria for “development within the curtilage of a dwellinghouse”.

2.2 The Appellant’s Statement of Case refers to six PINS appeal references, and states that “each of these appeals bear relevance to the case in question”. These appeal decisions are dated 2001 (ref. APP/Q5300/X/01/1062324), 2009 (ref. APP/N5090/X/09/2108111) and 2011 (ref. APP/U5930/X/10/2132832). The appeal decisions for refs. APP/M5450/X/17/3173114 and APP/5720/C/05/20045639 were not readily available online. These decisions do bear some relevance. However, given the evolving nature of appeal decisions, a more recent decision issued by the Inspectorate was considered most relevant in informing the LPA’s decision-making.

2.3 This Appeal Decision (ref. APP/W5780/X/20/3253492, dated 05 January 2021 and contained in Appendix A) concerned the refusal of a Lawful Development Certificate for a ‘Loft conversion and rear dormer with raised party walls’ to a terraced dwelling. The main issue of the appeal was “whether the development, in its entirety, would be

within the curtilage of the dwellinghouse and, therefore, whether the Council's decision to refuse the LDC was well founded".

- 2.4 Like the roof extension proposed at No. 128 Pine Gardens, the party walls of the appeal site would be significantly raised upwards, "thereby becoming part of the roof and extending beyond the boundaries and encroaching upon Nos. 28 and 32 [the adjoining dwellings]". In paragraph 11 of the Inspector's decision, he notes "the appellant's comments that the functional relationship between the adjoining buildings relies upon the party walls and requires for an overlap. Nonetheless, even though the degree of encroachment would be limited, the fact that the proposal transgresses the dwelling's boundaries means that it would represent development outside the curtilage of the dwellinghouse to be extended and does not thereby satisfy the fundamental GPDO criteria".
- 2.4 The LPA considered this most recent Appeal Decision, which closely resembles the circumstances of the proposal, to be most applicable when informing our decision. The GPDOs technical guidance was also considered when defining the curtilage as land which forms part and parcel with the house. In this respect the LPA's decision is considered well founded.

4. Conclusion

- 4.1 The proposal has been assessed against the relevant legislation and it has been deemed that the proposal does not constitute permitted development. The Certificate of Lawfulness is refused on the basis of the information submitted. It is considered that the officer's delegated report covers the assessment of the proposal against the relevant legislation with respect to Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 1. The Inspector is therefore respectfully requested to dismiss the appeal.

5. Appendices

Appendix A – PINS Appeal Decision ref. APP/W5780/X/20/3253492 (dated 5 January 2021)