

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 19/03566/PLUD

Ward:
Petts Wood And Knoll

Address : 32 Crossway Petts Wood Orpington
BR5 1PE

Objections: No

OS Grid Ref: E: 544807 N: 168071

Applicant : Mrs Vwong

Description of Development:

Loft conversion with set back hip to gable and set back rear dormer and rooflights to front LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED)

Key designations:

Area of Special Residential Character
Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 4

Proposal

The application seeks a Lawful Development Certificate for a loft conversion with a partial hip to gable roof enlargement and rear dormer extension.

Location and key constraints

The application site hosts a two storey semi-detached dwelling located on the eastern side of Crossway, within the Petts Wood Area of Special Residential Character.

There are restrictions upon 'permitted development' rights at the property due to the adopted Article 4 Direction that covers the Petts Wood Area of Special Residential Character. The Article 4 Direction specifically relates to alterations and additions to the front elevation and states in effect that any alteration or addition to any front roofslope (that facing the public highway) that is currently permitted by Class B or Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) would require planning permission.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and no representations were received.

Comments from Consultee

Legal (verbatim): I think that you cannot avoid reference to the Manor Way decision in your considerations. If the proposed extension is basically the same as that which the Inspector unreservedly allowed in the earlier decision, then this has to be given appropriate weight.

Considerations

The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and specifically whether any limitations/conditions of the Order are infringed.

Planning History

The application site has been the subject of the following previous applications;

- 90/01022/FUL - Part one/two storey side and rear extensions - Refused
- 05/00651/FULL6 - Single storey side and part one/two storey rear extensions. - Permitted

It appears that only a single storey side/rear extension has been added to the site.

A recent application for a Lawful Development Certificate (LDC) for a similar development at 40 Manor Way (ref: 18/02453/PLUD) is also an important consideration. The application sought a LDC for a loft conversion with roof alterations including a hip to gable extension set back from the front elevation, and a rear dormer. Following legal advice the recommendation for this application was for the certificate to be granted, however this was overturned at Committee on 28.06.2018 with the LDC refused on the grounds that;

1. The Land at Petts Wood Area of Special Residential Character Article 4 Direction requires planning permission to be sought for any alteration or addition to any front roofslope (that facing the public highway) that would otherwise have been permitted by Class B or Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The site is within the area covered by this Article 4 Direction. The front roof slope of the dwellinghouse would be altered by the hip to gable roof enlargement and therefore the proposal would require planning permission.

The decision was appealed by the applicant, and the appeal was subsequently allowed by the Planning Inspector. An application for an award of costs was also allowed.

Summary of Appeal Decision

The Inspector noted that No.40 Manor Way had a hipped roof with only one front roofslope which faces the public highway. The roofslope of the hip facing towards the common side boundary was defined as a side facing roofslope.

The proposal involved a hip to gable enlargement but not to the full depth of the roof, which introduced a new front facing roof slope stepped back behind the existing front facing roof slope. The plans indicate that the existing front roof slope will remain unchanged and intact.

The appeal Inspector considered that this proposal cannot be regarded as an "addition" to the front roof slope as it does not add to the front roof slope even though it enlarges the volume of the roof overall. Likewise, it cannot be an "alteration" to the front roof slope as it makes no changes to it even though the front elevation of the property overall will appear differently.

The Inspector further noted that there is no explicit reference in the Article 4 Direction to developments that "impact" on front roof slopes.

The Inspector did not accept the argument of the Council within the appeal that in interpreting the Article 4 Direction it is necessary to look at the rationale behind it and to apply a test of reasonableness. It was considered that the Article 4 Direction is a public document of some importance, and one that derives from a legal process. The basic principle in law is that such a document should be interpreted on its face and given its ordinary meaning as would be understood by members of the public and all others who might have an interest in it. It is only in circumstances where such a document is unclear or ambiguous that it might be necessary, in its interpretation, to look behind it.

It was considered that the Article 4 Direction was very clear. Its use of words such as "alteration", "addition" and "roof slope" provide considerable precision. Additionally, it gives certainty on the phrase "any front roof slope" by defining this as being that facing the public highway.

The Inspector therefore concluded that the appeal development did not involve any "alteration" or "addition" to the "front roof slope" of the dwelling, and that the Article 4 Direction does not place any restriction on the permitted development rights that applied to the appeal proposal.

Conclusion

Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. In this instance, the proposed roof alterations and rear dormer extension would fall within the scope of Class B and is considered to be permitted development for the following reasons:

- The extension will not exceed the height of the highest part of the existing roof. The ridge of the roof alterations will be set below the ridge of the main roof of the property by approx. 0.2m.
- The extension would not extend beyond the plane of the existing roof slope which forms the principal elevation and fronts a highway.

- The front roofslope of the roof alterations will be set back from the front roofslope of the host dwelling by approx. 0.4m, therefore the extension does not enlarge the front roofslope of the host dwelling.
- The resulting volume of the proposed roof alterations and rear dormer extension falls within 50 cubic metres allowed in the case of a semi-detached dwelling (33.54 cubic metres approximately).
- The proposal does not consist of or include a veranda, balcony or raised platform.
- The proposal does not consist of or include the installation, alteration or replacement of a chimney, flue or soil and vent pipe.
- The house is not sited within a conservation area.
- The materials proposed for the exterior will be similar in appearance to those used in the construction of the exterior of the existing dwellinghouse.
- The dormer provides more than a minimum 0.2m separation from the eaves of the dwelling.
- There are no new windows proposed in the flank elevation.

Class C covers other alterations such as the installation of roof lights. In this instance, the proposed front rooflights would fall within the scope of Class C, and is considered to be permitted development for the following reasons:

- The proposed rooflights to the front elevation will not project more than 150mm from the roof slope.
- The highest part of the alteration is not higher than the highest part of the original roof.

The property is located within the Petts Wood Area of Special Residential Character, so the Article 4 Direction for the area does need to be considered, however Legal advice has been sought and it is considered that the proposed development is not prohibited by the Direction, which specifically relates to alterations and additions to the front elevation. Further regard is given to the appeal decision at No.40 Manor Way which has been summarised above (Appeal Ref: APP/G5180/X/18/3212541).

The proposal cannot be regarded as an "addition" to the front roofslope as it does not add to the front roofslope even though it enlarges the volume of the roof overall. Likewise, it cannot be considered an "alteration" to the front roofslope as it makes no changes to it, even though the front elevation of the property overall will appear differently.

The proposed development is to the side elevation and set back from the front elevation, therefore this is outside of the permitted development rights which have been removed.

It is therefore considered that the certificate be granted.

RECOMMENDATION: CERTIFICATE BE GRANTED

- 1 The proposal as submitted would constitute permitted development by virtue of Class B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.**