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## Appeal Decision

Site visit made on 9 November 2010

by Alan Upward BA (Hons) MCD MRTPI

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

Decision date: 23 November 2010

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**Appeal Ref: APP/D2320/X/10/2125015**

**8 Waterford Close, Heath Charnock, CHORLEY, PR6 9JQ**

- 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 A Stel against the decision of Chorley Borough Council.
  - The application Ref 10/00034/CLPUD, dated 14 January 2010, was refused by notice dated 1 March 2010.
  - 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 to **make existing hips on roof into gables. New rear tiled Dormer (Tiles to match existing roof tiles in colour). Convert the loft.**
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### Decision

#### 1. I dismiss the appeal.

#### The LDC development

2. The appeal relates to a detached 2 storey house on a corner plot within a modern residential estate. Whether the proposed works to add a third level of accommodation would be permitted development fall to be considered against the terms of Class B of Part 1 of the GPDO Schedule as *"an addition or alteration to its roof"*. The Council agreed that the submitted scheme would not contravene any of the exclusions from permitted development at B.1. The dormer element of the enlargement in the south-east facing plane of the roof would contain 3 windows for the proposed bedroom and dressing room, which the Appellant accepted would be clear glazed. The Council's refusal of the application was on the basis of a failure to meet the condition at B.2(c) that *"any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be – (i) obscure glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed"*.

#### The main issue is

- whether the south-east facing wall and roof plane of the house forms a side elevation of the dwellinghouse.

#### Appraisal

3. The Appellant argued that the north-west elevation of the house, which faced the turning head of a cul-de-sac, was the front of the dwelling. It contained the property's front elevation and front entrance door. On this basis the south-east facing plane of the building, which was on the opposite side, could not possibly be the side elevation. The condition at B.2(c) could not therefore be applicable to the proposed works. He also submitted a copy of an original plan from the time of planning permission for the estate development. On this the elevation, onto which the dormer would be added, was labelled "rear elevation".

4. The estate developer's house type plan, submitted by the Appellant, was annotated "32", being the plot number within the development for the appeal dwelling. This plan was "The Bollington" house type. The additional estate layout plan submitted by the Appellant showed that "The Bollington" type had been used at a number of other plots within the estate, in some cases (as here) on corner sites and in others within rows of dwellings along a cul-de-sac. As I viewed the area during my visit, it was apparent that this house type had been modified in some respects to reflect the amount of space between and relationship with other dwellings and the location of areas used as private garden land. At nearby plot 37 where the private garden area was located on the opposite side to the frontage, windows in the flank elevations were differently placed within the building. This suggested that the house type had been used flexibly and modified in response to its detailed siting in relation to the remainder of the development. On this basis I doubt that the legend "rear elevation" on the house type plan represented a definitive indication of the status of an elevation in a particular case.
5. At number 8 the house was laid out with its principal private garden located on its north-eastern side. There was about 1 metre between the south-east facing wall and the rear private garden boundary with number 9. On this face the existing dwelling contained 2 first floor windows, one serving a bathroom (obscure glazed) and the other a clear glazed landing window, and a ground floor glazed door to a utility room. Such fenestration is often found in the side faces of dwellings where the wall lies close to the property of residential neighbours, and privacy is a concern. The nature of windows inserted into the north-east facing plane of the building similarly reflected the fact that this overlooked the property's garden land, some way removed from private areas associated with neighbouring dwellings. In the circumstances of this site this face can reasonably be regarded as its rear elevation and the south-east facing side its side elevation.
6. Although ordinarily, a rear elevation would be expected to be sited opposite the front elevation, the tailoring of dwelling design to reflect an estate's pattern of layout, and in particular to accommodate the difficulties created on corner plots in the relationships between buildings, does not dictate that this should always be the case. The house at number 8 was clearly designed in detail to reflect the limitations of space and inter-relationships of buildings on this corner plot. Its south-eastern face was designed to provide a side elevation in its relationship with the house alongside, the rear being on the north-eastern side.
7. In applying the GPDO provisions, I therefore consider that the Council were correct in their interpretation that the south-eastern side provided a side elevation to which condition B.2(c) applied. Failure to comply with its terms meant that the extension proposal would not be development permitted by Class B of Part 1 of the GPDO Schedule. The Council's refusal was therefore well founded, and the appeal will be dismissed.

*Alan Upward*

INSPECTOR