

ROCHDALE BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 192



APPEAL BY MR P RANGELEY
APPEAL SITE: 27 TURBARY WALK, OL16 4JN
STATEMENT OF THE LOCAL PLANNING AUTHORITY

LPA REFERENCE: 22/01584/CPL
PINS REFERENCE: APP/P4225/X/23/3317653

INTRODUCTION AND BACKGROUND

- 1.1 This appeal is against the Local Planning Authority's refusal to issue a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 under application reference 22/01584/CPL – '*Certificate of lawfulness for a proposed rear dormer extension*'.
- 1.2 The application sought a Lawful Development Certificate for a proposed flat roof dormer which measures 4.39m in length, 2.77m in height, and 6.76m in depth.
- 1.3 The application was refused by notice dated 13th February 2023 for the following reason:

The proposal does not constitute permitted development by virtue of non-compliance with the requirements of Criterion (c) and (d) of Class B, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the plans indicate that the proposed dormer projects beyond the roof slope which forms the principal elevation of the dwellinghouse and front a highway. In addition, the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 40 cubic metres.

SITE DESCRIPTION

- 2.1 This application relates to no. 27 Turbary Walk, a two-storey terraced dwelling located within the Defined Urban Area in Milnrow. The dwelling is adjoined by no. 26 Turbary Walk to the south-east and adjoined by no. 28 Turbary Walk to the north-west. Nos. 25-27 Turbary Walk are set back from the adjoining row of terraced dwellings by approx. 1.77m when viewed from the north-east elevation.
- 2.2 The property is accessible to the north-east and south-west from Turbary Walk, a public footpath which surrounds all elevations of nos. 23-31 Turbary Walk. Leyfield Road, a public road providing vehicular access, adjoins Turbary Walk to the north-east. The property benefits from undesignated on-street parking spaces on Leyfield Road to the north and is within close proximity to the Kingsway Business Park Metrolink tram station to the south.

RELEVANT PLANNING HISTORY

- 3.1 22/00809/HOUS - Rear dormer extension (retrospective) – Refused 29/09/2022 for the following reason:

Reason: It is considered that the flat-roofed dormer with its long range of visibility and use of grey cladding is an incongruous addition to the rear roof slope which is out of keeping with the character of the area. The dormer is therefore visually harmful and detrimental to the visual amenity of the area, contrary to Policies DM1 and P3 of the adopted Rochdale Core Strategy of 2016 and the guidance in the Council adopted Supplementary Planning Document 'Guidelines and Standards for Residential Development' of 2016.

CASE FOR THE LOCAL PLANNING AUTHORITY

- 4.1 With reference to Criterion (c) of Class B, Part 1 of Schedule 2 of the GDPO, "Principal elevation", defined in the Permitted development rights for householders – Technical Guidance (Sep 2019), is defined as the following: *"in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation."*
- 4.2 Based on available evidence, the application property directly fronts Turbary Walk, an adopted highway which sets the postcode for the property, on both its north-east and south-west elevation, as evident in Figure 1 below. As such, a view must be taken as to which of the two elevations forms the principal elevation of the host dwelling.



Figure 1: Map showing the Adopted Highway Network for the immediate locality of the application property. No. 27 Turbary Walk is indicated by the red cross and Turbary Walk as an adopted highway is outlined in red and bold.

- 4.3 The south-west elevation of the host dwelling comprises of an entrance door with a small grassed curtilage space, bordered by low open-aspect metal railings and gate. This elevation faces a public footpath which is primarily accessed from the public road. The dwelling from this elevation is not prominent from the public road but is visible when viewed from the adjacent Metrolink station.
- 4.4 On the other hand, the north-east elevation of the host dwelling features a porch with a recessed entrance door which directly leads to the internal staircase, as indicated by the existing floor plans (dated 14/12/2022), a deliberate design feature which would suggest that the dwelling was designed to be accessed principally from this elevation. Forward of this elevation is a larger patio curtilage space surrounded by vertical timber fencing with a gate which adjoins the public footpath, followed by the public road and associated parking spaces. Relative to the south-west elevation, the dwelling from the north-east elevation has a greater range of visibility, especially when viewed from Leyfield Road to the east.
- 4.5 The assessment of the principal elevation of the dwelling is a matter of fact and degree; taking into account the above assessment the north-east elevation is taken to be the principal elevation of the dwelling due to its functional attributes and prominence from the highway. The proposed dormer extends beyond the roof slope of this elevation and therefore does not comply with Criterion (c).

- 4.6 With regard to Criterion (d) of Class B, Part 1 of Schedule 2 of the GDPO, the total dormer volume was calculated based on the scaled measurements of the submitted proposed side and rear elevations (dated 14/12/2022), shown in Figure 2 and 3 below.

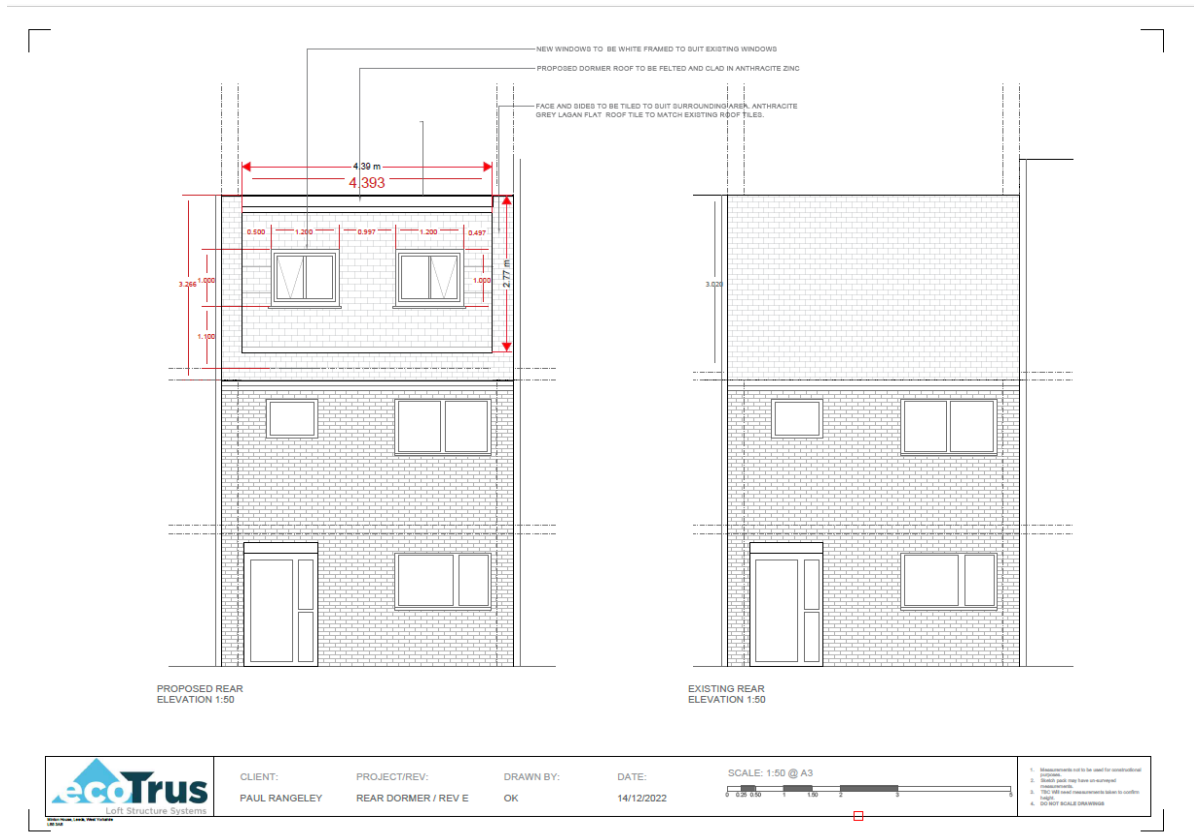


Figure 2: Screenshot of the submitted proposed rear elevation with measurements.

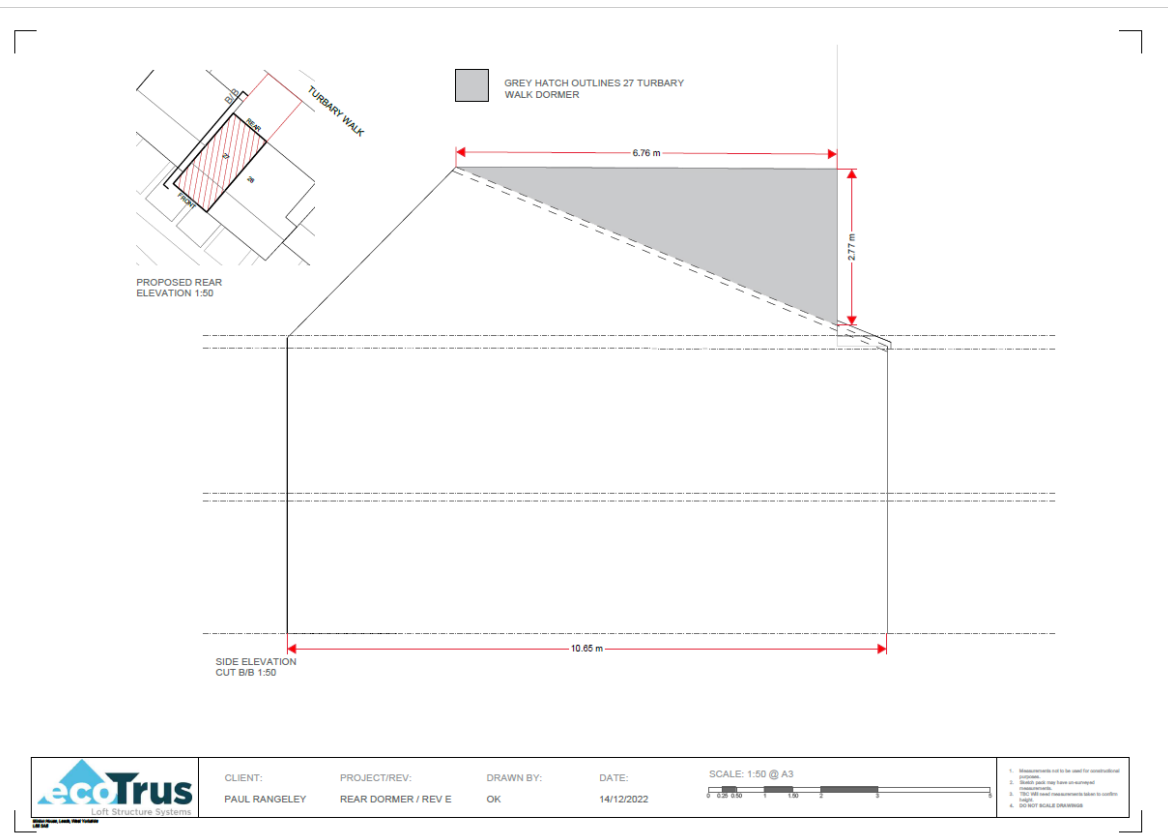


Figure 3: Screenshot of the submitted proposed side elevation with measurements.

- 4.7 Based on the submitted plans, the proposed dormer comprises of a length of 4.39m, a height of 2.77m, and a depth of 6.76m. Using the standard formula for the volume of a dormer ($[\text{length} \times \text{height} \times \text{depth}] / 2$), the total volume is taken to be 41.1 cubic metres, which exceeds the 40 cubic metres stated in Criterion (d)(i) and does not comply.

LPA's RESPONSE TO APPELLANT'S GROUNDS OF APPEAL

- 5.1 The appellant contends the proposal compiles with the criteria of Class B of Part 1 of Schedule 2 of the GPDO.
- 5.2 With regard to Criterion (c), the appellant contends the application property only faces Turbary Walk on its south-west elevation and as such is considered as the principal elevation. However, as indicated in Figure 1, Turbary Walk occupies the perimeter of nos. 23-31 Turbary Walk, which includes the host dwelling. Whilst Leyfield Road is sited to the north-east of the host dwelling, it is Turbary Walk which directly abuts the curtilage boundary.
- 5.3 The appellant contends the south-west elevation as the principal elevation by virtue of, amongst other things, the siting of the lounge on this elevation and the south-west elevation windows being markedly larger than the windows on

the north-east elevation. Whilst functional attributes factor into the assessment of the principal elevation, the position of the lounge as the assumed 'front' elevation does not adequately address other functional attributes on the north-east elevation, such as the recessed porch and directly facing staircase. Moreover, it is considered the sizing of windows relates to the function of the room it serves, rather than an indication of a principal elevation.

- 5.4 The appellant also states that neighbouring dwellings in the estate comprises of an internal staircase in the same location and as such cannot be conclusive in assessing the principal elevation of the host dwelling. However, it is noted the assessment of principal elevation by the LPA takes into account of the specific site context of the application property, in particular, the orientation of the north-east elevation towards the public road. On this basis, it is considered the proposed dormer projects beyond the north-east roof slope which forms the principal elevation and does not comply with Criterion (c).
- 5.5 It is acknowledged the appellant notes the south-west elevation comprises the house number, letter box and low railings, physical attributes that can be perceived to form part of a 'front' elevation and thus principal elevation of the dwelling. However, such attributes are not outweighed by a distinctive architectural feature such as the recessed porch and the functional attributes it carries with the internal staircase and the adjoined public road.
- 5.6 With regard to Criterion (d), the appellant claims the total volume of the proposed dormer to be 39.2 cubic metres, calculated using a CAD computer package. The total volume of 41.1 cubic metres set out by the LPA is calculated using a standardized method and as such is considered to constitute non-compliance with Criterion (d).
- 5.7 Under this application for a certificate of lawfulness, the LPA were not provided with information satisfying them that the proposal described in the application would be lawful and subsequently refused the application.

CONCLUSION

- 6.1 In conclusion, the decision not to issue a lawful development certificate for the proposed dormer was based on the details provided with the application which indicate that the proposed development does not constitute permitted development by reason of its lack of compliance with Criterion (c) and (d) of Class B, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is therefore respectfully requested that the appeal be dismissed on this basis.