
Appeal Decision

Site visit made on 22 August 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 6 September 2016

Appeal Ref: APP/T0355/X/15/3143755

62 Portlock Road, Maidenhead, Berkshire SL6 6DZ

- The appeal is made by Mr & Mrs O Gooch under section 195 of the Town and Country Planning Act 1990 against a refusal by the Council of the Royal Borough of Windsor and Maidenhead to grant a lawful development certificate.
 - The application Ref: 15/03550, dated 3 November 2015, was refused by notice dated 1 December 2015.
 - The application was made under section 192(1)(b).
 - The development for which the certificate is sought is a single-storey rear extension.
-

Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on whether or not the proposed operations would be lawful if begun at the time of the application for the certificate. The planning merits of the operations are not relevant to the appeal and there is no planning application before me.
 3. 62 Portlock Road is a semi-detached house with a single-storey outrigger at the rear, which is about half the width of the house and is used as a kitchen. The operations involve the demolition of the outrigger and the erection of a single-storey extension that would project further into the rear garden and be the full width of the house.
 4. The Town and Country Planning (General Permitted Development) (England) Order 2015, Article 3(1) and Schedule 2, Part 1, Class A, grants planning permission for an enlargement of the house, provided it would not infringe any of the limitations in A.1(a) to (k). The limitations in question in this appeal are (g) and (j).
 5. The appellants contend that the proposed enlargement would be a rear extension that would be within limitation (g), and that it should not be treated as a side extension to which limitation (j) would apply. They maintain that it would fall within the statement in the Government publication *Permitted development rights for householders: Technical Guidance* that "Where the
-

- original rear wall of a house is stepped, then each of these walls will form 'the rear wall of the original dwellinghouse'".
6. The Council do not dispute that the enlargement would be within limitation (g), but maintain that it would infringe limitation (j). They quote the statement in the *Technical Guidance* that "A wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. Houses will often have more than two side elevation walls".
 7. Limitation (j) is as follows: -
 - "(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
 - (i) exceed 4 metres in height,
 - (ii) have more than a single storey, or
 - (iii) have a width greater than half the width of the original dwellinghouse"
 8. I take the view, having regard to the judgment of the High Court in *Arnold v Secretary of State for Communities and Local Government* [2015] EWHC 1197 (Admin) (see paragraphs 75 & 76 of the judgment [(j) was (h) at the time]), that limitation (j) includes walls comprised in a projection from the main body of a house and that the fact that a wall has been, or will be demolished, does not mean that it is to be disregarded for the purposes of the limitation.
 9. In my opinion, the house has two side elevation walls – the wall that forms the side elevation of the house and the outer side elevation of the outrigger and the wall that forms the inner side elevation of the outrigger. The outrigger is part of the original house and the enlarged part would extend beyond the wall that forms its inner side elevation. Although it would not exceed 4 metres in height or have more than a single storey, the enlarged part would have a width greater than half the width of the original house, since it is proposed to demolish the outrigger and construct an enlargement that would be the full width of the house. Limitation (j) would therefore be infringed.
 10. I have concluded that the operations would not be lawful if begun at the time of the application. I am satisfied that the Council's refusal of the application is well-founded and the appeal has therefore been dismissed, as required by section 195(3).

D.A.Hainsworth

INSPECTOR