

Appeal Decision

Site visit made on 5 July 2016

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 21 September 2016

Appeal Ref: APP/R0660/D/16/3150358

Damson Tree Cottage, Paddock Hill, Mobberley, Knutsford, WA16 7BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Niall Patton against the decision of Cheshire East Council.
 - The application Ref 16/0212M, dated 12 January 2016, was refused by notice dated 22 February 2016.
 - The development proposed is single storey rear extension x 2 to rear of original house.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for single storey rear extension x 2 to rear of original house at Damson Tree Cottage, Paddock Hill, Mobberley, Knutsford, WA16 7BZ in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A4 (2) of the GPDO.

Procedural Matters

2. Schedule 2, Part 1, Class A of the GPDO defines development consisting of the enlargement, improvement or other alteration of a dwellinghouse where this would amount to permitted development. Specifically, A.1 (g) states that until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and - (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse.
 3. The appeal property is a detached dwelling that has been previously extended. This appeal proposal would see the construction of two, single storey rear extensions that would project from the rear wall of the existing rear extension. The Council determined that as the proposal would not be attached to the rear wall of the original dwelling house, the proposal was not permitted development.
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4. Notwithstanding this, a consultation exercise was undertaken on the proposal. The provisions of the GDPO require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. No representations from neighbouring occupants were received at application or appeal stage and the Council officer's report concludes that the impact on the amenity of adjoining premises would be acceptable. I have taken this to mean that the Council concluded that prior approval would not be required for this matter and I have considered the appeal on that basis.
5. A recent legal judgement¹ held that for the purposes of the GDPO, Schedule 2, Part 1, Class A, paragraph A.1 (g), the 'enlarged part of the dwellinghouse' refers only to that development which is proposed as part of the current appeal proposal. The main parties to this appeal were consulted on the legal judgement and given the opportunity to comment on the relevance of it to this appeal proposal. I have taken account of the representations received in my determination of this appeal.

Main Issue

6. The main issue is whether the proposed development would fall within development permitted by Class A of the GPDO and not be excluded under paragraph A.1 (g) by virtue of the fact that the development proposed would be attached to the rear wall of an existing extension.

Reasons

7. The existing rear extension at the appeal property extends from the original rear wall of the dwelling by between approximately 3 and 5m (maximum). It is part single storey with a central part that is two storeys high.
8. The extensions proposed as part of this appeal scheme would be single storey and would attach to the rear wall either side of the central taller part of the existing extension, resulting in a 'U' shape projection from the existing rear elevation.
9. Both proposed extensions would therefore be attached to the existing extension at the point where it is single storey in height. The length of the proposed extensions would be 4.5m and 3m. Therefore, when the proposed extensions are considered in combination with the existing rear extension, the extent of the proposal would project 8m from the rear wall of the original dwellinghouse in total.
10. In summary, the appeal proposal would be single storey. Notwithstanding that it would be attached to the rear wall of an existing extension, the proposal would not extend beyond the rear wall of the original dwellinghouse by more than 8 m.
11. On that basis, I conclude that the proposed development would therefore fall within permitted development under schedule 2, Part 3, Class A of the GPDO and is not excluded by virtue of any of the matters identified in Class A.1.

¹ Gary Hilton v SSCLG & LB of Bexley [2016]

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed and approval granted. In granting approval the Appellant should note that the GPDO requires at Paragraphs A4 (13), (14) and (15) that the development shall be completed on or before 30th May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development, and the date of completion.

V Lucas-Gosnold

INSPECTOR