
Appeal Decision

Site visit made on 19 September 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 29 September 2016

Appeal Ref: APP/W4705/X/15/3147430

River Dale, Beckfoot Lane, Bingley BD16 1LX

- 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 Andrew Beaumont against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref 16/00684/CLP, dated 2 February 2016, was refused by notice dated 24 March 2016.
 - 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 the construction of an extension to the side elevation.
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Decision

1. The appeal is allowed and I attach to this decision a Certificate of Lawful Development (LDC) indicating that at the time of the application the side extension as proposed would have been lawful.

Reasons

2. An appeal relating to a Certificate of Lawful Use or Development (LDC) is confined to the narrow remit of reviewing the local planning authority's reason for refusal and then deciding whether or not the reasons are well founded. The planning merits of the case do not fall to be considered. In relation to this LDC appeal the only question to be asked is whether or not the proposed extension would have a greater width than half the width of the original dwelling house.

3. The appellant contends that it would not. The Council considers that it would and, therefore, that it is not permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2, Part 1 Class A (A1(g)). By letter of 21 September 2016 The Planning Inspectorate asked the Council to confirm which plans they took into consideration in reaching their decision. There has been no reply to this letter. I have, therefore, dealt with the appeal on the basis of the plans on file and I am satisfied that this will not cause any injustice.

4. In any LDC application, an applicant is required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. The burden of proof is firmly on the applicant and a local planning authority must be supplied with sufficient information to satisfy them that the proposed development is lawful. In this case I am satisfied that I have been supplied with sufficient information to make my assessment.

5. Proposed drawings were submitted indicating that the width of the proposed extension to the side elevation would be 5.7m. The Council appears to contend that the maximum allowable would be around 5.4m presumably based on what they assess to be the original width of the dwelling house.

6. In my view the key drawing in this case is the one said to date back to 1924 which the appellant confirms is the construction drawing and therefore the plan of the original house (built before 1 July 1948). It is from this drawing that the overall width dimension should be taken.

7. The parties agree that the 'principal elevation' is the one nearest to and facing the road. The 'rear' elevation for the purposes of the GPDO is, therefore, the one directly opposite, which faces the beck. The 'principal elevation' will usually be the widest but the GPDO does not specifically state that this must be where the 'widest' dimension should be taken. In addition it is generally accepted that the 'principal elevation' will usually be the widest or (my underlining) one of the 2 No widest elevations. This second elevation might be that at the rear or the original width could include one of the two main elevations plus an addition.

8. Having seen the 'original drawing' I consider that the widest elevation of the dwelling house as constructed was the rear elevation. Including the original angled bay window at the south-eastern end of the rear elevation, the total width of the house is shown as 38 feet and 2 inches. This equates to around 11.63m. One half of that would be just over 5.8m. It follows, therefore, that if the new side extension (including the existing extension to the north-west) is only 5.7m (and it scales as such from the proposed drawing) the new extension would be less than half the width of the original house.

9. The Council has not produced any convincing evidence to indicate that the proposed extension would be more than half the width of the original dwelling house and its proposed height is within the permitted development criteria. In conclusion, therefore, I find that the Council's decision not to issue a LDC was unsound. The appeal succeeds and I attach a LDC to this decision.

10. In reaching my decision I have taken all other matters raised by the Council into account. However, none is of such significance to change my decision.

Anthony J Wharton

Inspector



The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 2 February 2016 the development described in the First Schedule hereto in respect of the land/property specified in the Second Schedule hereto, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development constitutes permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2, Part 1 Class A.

Signed

Anthony J Wharton
Inspector

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First Schedule

The construction of an extension to a side elevation in accordance with drawings SK M 01A (Floor Plans as proposed) and SK M 02A (Roof Plan, Elevations & Sections as proposed).

Second Schedule

River Dale, Beckfoot Lane, Bingley BD16 1LX

Notes:

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended) and relates to the side extension only.

It certifies that the proposed development described in the First Schedule on the land specified in the Second Schedule was lawful, on the certified dates and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on those dates.

This certificate applies only to the extent of development described in the First Schedule and to the land/property specified in the Second Schedule. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.