
Appeal Decision

Site visit made on 4 October 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 20th October 2016

Appeal Ref: APP/A0665/W/16/3152552

Manor Cottage, Hillfoot Lane, Frodsham WA6 6TB

- 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 of the Town and Country Planning (General Permitted Development) (England) 2015.
 - The appeal is made by Mr J Moulding and Ms A Lowe against the decision of Cheshire West & Chester Council.
 - The application Ref 16/00939/HHE, dated 1 March 2016, was refused by notice dated 31 March 2016.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is whether the proposed extension represents permitted development and, if it is, whether prior approval is required.

Reasons

3. Class A of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits certain enlargements, improvements or other alterations of a dwellinghouse. Paragraph A.1 (j) indicates that development is not permitted if 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.
 4. Article 2 of the GPDO defines 'original' as the building as originally built or as existing on 1 July 1948. The existing house was in existence on 1 July 1948 and so it is the house as it existed on this day that represents the 'original dwellinghouse' in this case.
 5. The house currently has a single storey side extension that it is indicated was constructed in the 1970s. This does not extend the full depth of the main two storey part of the dwelling. Attached to the rear of this is a conservatory that extends beyond the rear elevation of the main house. As part of the proposal the conservatory would be removed, and the proposed single storey extension would be attached to the current side extension, as well as the two storey part of the house, and an existing two storey rear extension. It would therefore
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also be attached to a small part of the side elevation of the main two storey part of the house.

6. Whilst this current side extension does not form part of the original dwellinghouse, the appellants have provided evidence, in the form of a photograph, and a statutory declaration from the son of the owner of the property in 1948, that the house at that time had a single storey element at the side.
7. The photograph shows a single storey element that is located in approximately the same position as the current side extension. The appellant considers that, unlike the current extension, the rear elevation of the single storey element was the same as that of the two storey part of the house. However, the statutory declaration does not confirm whether this is the case or not, and in my opinion, the photographic evidence is not sufficiently clear to prove conclusively that this was in fact the case. In the light of this, I am not persuaded that the rear elevation of the single storey element was in fact continuous with the two storey part of the house but, like the current extension, may have been set back slightly.
8. In the absence of substantive evidence to the contrary, I consider that the proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse. Therefore the proposal must meet the criteria set out in paragraph A.1 (j) of the GPDO. In this case, the width of the enlarged part of the dwellinghouse would be greater than half the width of the original dwellinghouse. As a consequence, it precludes the proposal from being permitted development under paragraph A.1 (j) of the GPDO, and an application for planning permission is required.
9. The Council has made reference to the fact that the proposed extension would also tie into a side wall (not original) of a two storey extension, and sought to assess the width of the proposed extension with the earlier two storey extension. However, the recent High Court judgement¹ indicates that 'the enlarged part of the dwellinghouse' does not include previous enlargements but is only that which is included in the current proposal. Whilst I have determined the appeal on this basis, as the 'enlarged part of the dwellinghouse' in this case would be greater than half the width of the original dwellinghouse, it does not alter the outcome.
10. For the reasons given above, I conclude that the proposal is not permitted development, so that the need for prior approval does not arise, and that the appeal should be dismissed.

Alison Partington

INSPECTOR

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