



Appeal Decision

Site visit made on 29 October 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/D1590/D/19/3232732

31 Flemming Avenue, Leigh on Sea SS9 3AN

- 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, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mrs Maxine Edwards against the decision of Southend-on-sea Borough Council.
 - The application Ref 19/00937/GPDE, dated 20 May 2019, was refused by notice dated 12 June 2019.
 - 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 is whether the proposal would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).

Reasons

3. The proposed development would comprise a single storey extension to the rear of the existing dwelling, No 31. The host property is a terraced dwelling with driveway to front and private garden to the rear. The proposed extension would replace the existing rear conservatory and would provide a dining room and enlarged kitchen.
4. Under Schedule 2, Part 1, Class A of the GPDO, development for the enlargement, improvement or other alteration of a dwellinghouse is permitted subject to compliance with the criteria in Class A.1 paragraphs (a) to (k).
5. The Council have not identified any conflict with paragraphs A.1 (a) to (e) of the relevant part of the GPDO and I have little evidence before me that would lead me to conclude differently on this matter. The Council have, however, identified conflict with paragraph A.1 (j) on the basis of the presence of a 'ghost footprint of a single storey rear projection. Paragraph A.1 (j) states that development will not be permitted where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would (iii) have a width greater than half the width of the original dwellinghouse.

6. The previous single storey rear extension to the property originally formed an outside WC. This has been demolished with little evidence of this structure remaining on site. Nevertheless, the Council have based their assessment of the criteria of the GPDO on the inclusion of this former element. The limitations to permitted development (PD) are based on the original dwelling, even if part of the original is removed. However, as the specific details of this rear projection are disputed between the parties, it is necessary to ascertain from the available evidence what the situation was at 1948 in order to determine the extent of the PD rights.
7. I have been provided with a copy of previous plans of the host property, a copy of a record detailing works to the property and a letter from a neighbour stating that when they moved in, in 1987, there was no existing rear extension. The submitted plan appears to show a small extension to the rear to provide a WC, however access does not seem to have been via the main dwelling. Nevertheless, from the historic plan it does appear to be attached to the dwelling.
8. Consequently, based on the information before me, I have not been provided with substantive evidence that the rear, single storey projection did not form part of the original dwelling for the purposes of the GPDO. As such, the proposed extension would fail to comply with paragraph A.1 (j)(iii) of the GPDO in that it would extend beyond a wall forming the side elevation of the original dwelling house and would have a width greater than half the width of the original dwellinghouse.
9. I note that the proposed extension would replace an existing extension, and that there have been no objections from the neighbouring residents and I therefore have sympathy with the position of the Appellant. However, based on the evidence before me I am unable to conclude that the proposed extension would meet the requirements of the GPDO in this instance.
10. Accordingly, the proposed development would be one for which an application for planning permission is required and cannot be determined under the prior approval provisions as set out in the GPDO.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

R Norman

INSPECTOR