
Appeal Decision

Site visit made on 4 November 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/N0410/X/19/3227450

4 Waller Road, Beaconsfield, HP9 2HE

- 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 in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Shaf Dad against the decision of South Bucks District Council.
 - The application (Ref No: PL/19/0467/SA), dated 12 January 2019, was refused in part by the Council by notice dated 9 April 2019.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
 - The development for which a certificate of lawful use or development is sought is part single storey part two storey rear extension, single storey side extension, rear dormer and front porch.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For the avoidance of doubt, I should explain that the planning merits of the development are not relevant in this appeal which relates to an application for a LDC. My decision rests on the facts of the case, on relevant planning law and judicial authority. The burden of proving relevant facts rests on the appellant and the test of evidence is made on the balance of probability.
3. The Council have granted a LDC for the proposed single storey side extension, rear dormer and front porch but refused the application in relation to the part single storey part two storey rear extension. My considerations in this appeal are therefore limited to the part of the proposal that has been refused.

Main Issue

4. The main issue is whether or not the development proposed would be permitted by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) and whether the Council's decision to refuse in part the grant of a LDC was well-founded.

Reasons

5. The proposal is for a part single storey and part 2-storey extension to the rear of 4 Waller Road (No 4), a semi-detached dwelling. Schedule 2 Part 1 Class A of the GPDO sets out permitted development rights and accompanying limitations and conditions as they apply to the enlargement, improvement or

other alteration of a dwellinghouse. Class A.1 (h) of the GPDO provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would have more than a single storey and - (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse.

6. The boundaries to the curtilage of No 4 are not parallel with its side and rear elevations. As such, the boundary with 6 Waller Road (No 6) is at an angle which, the appellant states is around 68 degrees to the rear wall of No 4. I acknowledge that a diagram on page 21 of the Ministry of Housing, Communities and Local Government's publication 'Permitted Development Rights for Householders' Technical Guidance (September 2019) (TG) illustrates a boundary which is at a different angle to that on the appeal site. However, the wording of Class A.1 (h) (ii) of the GPDO does not refer to a set angle of a boundary rather it cites any boundary of its curtilage which is '*opposite*' the rear wall of the house being enlarged. I have taken '*opposite*' to mean facing in this context.
7. I observed on site that part of the rear elevation of the dwelling faces and is opposite the boundary with No 6. There is no dispute that the proposed extension would be within 7 metres of that boundary and would have more than a single storey. Consequently, the part single storey part 2 storey extension would not be permitted by Schedule 2, Part 1, Class A of the GPDO.

Conclusion

8. In many instances a proposal such as this would probably constitute 'permitted development' where the boundaries of curtilage of the dwelling are parallel to its elevations, and it may be this is why the appellant was seemingly led to understand that this would be so. Be that as it may, for the reasons given above, I conclude that the Council's refusal in part to grant a LDC in respect of the part single storey part 2-storey extension was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

D. Boffin

INSPECTOR