



Appeal Decision

Site visit made on 6 January 2020 by L Wilson BA (Hons) MA

Decision by Chris Hoult BA (Hons) BPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/H2733/D/19/3239323

17 Scholes Park Road, Scarborough, North Yorkshire YO12 6RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("GPDO").
 - The appeal is made by Mr Paul Rogers against the decision of Scarborough Borough Council.
 - The application Ref 19/01769/NOT, dated 24 July 2019, was refused by notice dated 3 September 2019.
 - The development proposed was described on the application form as: single storey on rear of property measuring 4.5 metres x 6 metres length and width with overall height of 2.7 metres. Purpose of extension to create large kitchen/ diner area. Garage and side of new build to be rebuilt to smaller scale.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. Whether the proposed development would constitute permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons for the Recommendation

4. Schedule 2, Part 1, Class A of the GPDO sets out the parameters for works that can be undertaken to enlarge, improve or alter a dwellinghouse under permitted development (PD) rights, subject to a number of conditions and limitations. Schedule 2, Part 1, Class A, Paragraph A.1(g) of the GPDO permits larger extensions, which are also subject to a prior approval process. The starting point must be to consider whether the proposal qualifies as PD with reference to the conditions and limitations set out within the GPDO.
5. No.17 is a two storey, end of terrace dwelling located within a residential area. The appeal property is set back from the highway behind a boundary hedge and front lawn. To the side of No.17 is a driveway leading to a detached garage. The development proposed is a single-storey rear extension.

6. The main issue relates to the height of the extension. The application form states that the extension would have a maximum height of 2.7m and 2.5m to the eaves. Conversely, the submitted drawing labels the overall height to be 3.44m and 3.04m to the eaves.
7. GPDO paragraph A.1(g) allows a maximum height of 4m. Thus, regardless of whether the application form or drawing measurements are accurate, the proposal would accord with paragraph A.1(g). The proposal also, however, needs to meet the limitations of para A.1(i). This states that the maximum eaves height allowed is 3m where any part of the extension would be within 2m of the boundary of the curtilage of the dwellinghouse. The extension would be within 2m of the boundary and adjacent to the boundary shared with No.15 Scholes Park Road.
8. Within the site there are land level differences; the dwelling sits higher than the rear garden. Although the measurements contained within the application form would comply with paragraph A.1(i), the submitted drawing clearly labels the eaves height as 3.04m. The height to the eaves has, on the plans, been correctly measured from the natural ground level at the base of the outside wall to the point where that wall would meet the upper surface of the roof slope. The plans show in precise detail the dimensions of the extension and are relied upon in the application, therefore I must conclude that the proposal would be above the 3m allowed and would not satisfy paragraph A.1(i).
9. On my site visit I observed decking located to the rear of the property. The appellant contends that he intends to remove the existing raised decking which would thus result in the required 3m height being achieved. However, the submitted plans clearly show measurements taken from ground level in the absence of decking so that has been assumed and, in spite of that, the limitation is exceeded. I assume that the present decking is lawful as I have no evidence to the contrary. However, I note that any proposal to reinstate the decking in conjunction with the extension, if that's what is also intended, would then trigger the limitation in paragraph A.1(k) of the GPDO, whereby development would not be permitted if it would include, among other things, a raised platform.
10. Consequently, based on the evidence provided, although the proposal would as it stands comply with A.1(k), it would not satisfy paragraph A.1(i) of Schedule 2, Part 1, Class A of the GPDO and so would not qualify as PD.

Other Considerations

11. Given that I have found that the proposal would not constitute PD, further to paragraph A.4 of the GPDO, I am not required to consider the effect of the proposed development on the amenity of the adjoining occupiers of No.15 Scholes Park Road.
12. I note the appellant's frustration with the Council, extensions granted elsewhere and personal circumstances including health. However, the appeal must be solely decided using the legislation within the GPDO and therefore these matters cannot be taken into consideration. Nor, in the light of my comments in paragraph 11 above, have I taken into account the objections from No.15.

Conclusion and Recommendation

13. For the reasons given above I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

C M Hoult

INSPECTOR