



Appeal Decision

Site visit made on 3 February 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/J1860/D/19/3240868

Braeside, Shoulton Lane, Hallow, Worcester WR2 6PU

- 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)(England) Order 2015 (as amended).
 - The appeal is made by Mr Stuart Hughes against the decision of Malvern Hills District Council.
 - The application Ref 19/01384/GPDE, dated 11 September 2019, was refused by notice dated 22 October 2019.
 - The development proposed is described as 'to build a single storey extension to the rear of the existing detached property 8 metres long and the same width as the existing. The new room will become a family living/kitchen area. The outside will be a rendered finish with the same roof tiles as the existing'.
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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)(England) Order 2015 (as amended) (hereafter the GPDO).

Reasons

3. The appeal property was originally built in the rear garden of the house 'Millbrae' as a double garage with a games room above, under a 2008 planning permission. It was subsequently used as living accommodation, and a Certificate of Lawful Existing Use or Development (CLEUD) for its use as a dwellinghouse was applied for and granted in 2017. The appellant now seeks prior approval for a 'larger home extension' at the rear of the building, to measure 8m in length, 4m high and with an eaves height of 2.2m.
4. The use of the former garage as a dwellinghouse is circumscribed by the CLEUD. The plan attached to the CLEUD only outlined the building itself as the land referred to in the certificate. Court judgments referred to by the appellant assist with defining curtilage in general terms, but do not directly address the facts of this case, in which no external land was granted by the CLEUD to be associated with the appeal property. Although 'Braeside' therefore has permitted development rights as a dwellinghouse, it does not have a defined

curtilage beyond the extent of the building encompassed by the red line boundary shown on the certified plan at the time the CLEUD was granted. This is not altered by the later sub-division of the original garden of the 'parent' dwelling 'Millbrae'.

5. Schedule 2, Part 1 of the GPDO, including Class A, grants permission for certain development within the curtilage of a dwellinghouse subject to various other conditions and limitations. However, as the proposed extension would not be within the curtilage of the dwellinghouse it is not permitted development under Schedule 2, Part 1, Class A of the GPDO, and is a development for which an application for planning permission would be required. Prior approval therefore cannot be granted.

Conclusion

6. For the reasons given above the appeal is dismissed.

M Cryan

Inspector