
Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2020

Appeal Ref: APP/M0655/X/19/3228422

7 Chesterton Drive, Winwick, Warrington WA2 8XF

- 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 to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Jim Makin against the decision of Warrington Borough Council.
 - The application Ref 2019/34509, dated 22 February 2019, was refused by notice dated 1 May 2019.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is demolish existing conservatory and add single storey rear extension.
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Preliminary Matter

1. Although an accompanied site visit was arranged for 25 February 2020 the appellant was not present to provide access to the rear of the property. However, that does not affect the determination of this appeal which is based on compliance with permitted development rights rather than planning merits.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Class A of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

4. Class A, Part 1 of Schedule 2 of the GPDO allows for the enlargement, improvement or other alteration of a dwellinghouse. However, this is subject to conditions, including A.1 (j)(iii) which states 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 have a width greater than half the width of the original dwellinghouse.
5. Permitted development rights for householders Technical Guidance September 2019 (Technical Guidance) states that a wall forming a side elevation of a house is any wall that cannot be identified as being a front or a rear wall. The

Technical Guidance goes on to state that houses will often have more than two side elevation walls. Where an extension is beyond any side wall, the restrictions in (j) will apply.

6. The Technical Guidance also gives examples of development which are classed as being rear and side extensions which include where an extension fills an area between a side elevation and a rear wall. In such an example the restrictions on extensions beyond rear walls and side walls will both apply. Therefore, in the particular circumstances before me the proposed extension must not have an overall width exceeding more than half of the original dwellinghouse if it is to be permitted by virtue of Class A.
7. The evidence before me is that the width of the original dwellinghouse is approximately 11.75 metres. The proposed single storey rear extension is approximately 7.6 metres wide which is more than half the width of the original dwellinghouse. Consequently, the proposal is in excess of that permitted under Class A.1 (j)(iii) Part 1 of Schedule 2 of the GPDO.
8. The appellant contends that the Technical Guidance refers only to semi-detached properties but Class A (j) does not specify at this is the case. The appellant also argues that the proposal does not project beyond a side wall, but according to the interpretation of the GPDO in Technical Guidance which refers to 'any' side wall it cannot reasonably be disputed that the extension is not off a side wall of the original house.

Conclusion

9. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC in respect of the proposal to demolish the existing conservatory and add single storey rear extension was well-founded and the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

Formal Decision

10. The appeal is dismissed.

A A Phillips

INSPECTOR