

Appeal Decision

Site Inspection on 9 March 2020

by Graham Self MA MSc FRTPI

Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 16th March 2020

Appeal Reference: APP/J0350/X/19/3234992

Site at: 45 St George's Crescent, Slough SL1 5PL

- The appeal is made by Mr Steve Rance under Section 195 of the Town and Country Planning Act 1990 as amended against the refusal by Slough Borough Council to grant a certificate of lawfulness.
- The application (Reference Number P/17812/000) dated 7 June 2019 was refused on 1 August 2019.
- The application was made under Section 192 of the Town and Country Planning Act 1990 as amended.
- The application sought a certificate of lawfulness for: "Erection of a single storey extension to the rear of the property at 45 St Georges Crescent, Cippenham, Slough SL1 5PL".

Summary of Decision: The appeal does not succeed.

Reasons

1. The dispute in this case concerns the "permitted development" allowances under Article 3 and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the "GPDO"). These provisions of the GPDO grant planning permission for the enlargement of a dwellinghouse¹ subject to various provisos, restrictions and limits. One of the provisos (in sub-sub-sub-paragraph A.1(j)(iii) of Class A) is that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse.
2. As is explained in the government's published Technical Guidance on permitted development rights for householders, a wall forming a side elevation of a house is any wall which cannot be identified as a front wall or rear wall. This point is illustrated by a diagram in the Guidance showing a house with "stepped" rear projections, the side walls of which are labelled as walls forming a side elevation.
3. The rear of the house at the appeal site is not flat - the northern part behind the kitchen projects beyond the southern part at the rear of a living room. The projection is quite small - I measured it at 0.35 metres (or 35 centimetres or about 14 inches) - but it means that there is a short piece of wall which is not rear-facing. It is obviously not a front wall and it is side-facing; so it has to be treated as a side elevation. It extends to the full two-storey height and is clearly

¹ It is necessary for me to use the old-fashioned term "dwellinghouse" here because that is the term used in the legislation.

part of the original house. The proposed extension would project beyond this side elevation and would have a width greater than half the width of the original house.

4. The government's published Guidance has not always been found to be legally correct; but in this instance I do not see good reason to interpret the GPDO other than in accordance with the Guidance. If the effect of the rear projection were to be ignored because of the small scale of the side-facing piece of wall, the question would arise: would a projection of, say, a slightly greater extent create a side elevation within the meaning of the GPDO? If so, how much greater? Where should the line be drawn? Moreover, the GPDO as currently drafted does not provide for flexibility - it merely refers to a wall forming a side elevation. The existence of the rear projection with its side-facing component is also a clearly visible feature of the house design.
5. I conclude that the proposal would not be permitted under Class A of the GPDO, because the extension would project 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. Nor would it be permitted by any other part of the GPDO, and evidently no application for specific planning permission has been made. This finding does not of course affect the possible outcome of an application for planning permission if one were to be made in the normal way.

Conclusion

6. For the reasons given above I find that the council's refusal to grant a certificate of lawfulness in respect of application reference P/17812/000 relating to "Erection of a single storey extension to the rear of the property at 45 St Georges Crescent, Cippenham, Slough SL1 5PL" was well-founded.

Formal Decision

7. I dismiss the appeal.

G F Self

Inspector