



Appeal Decision

Site visit made on 10 March 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15TH April 2020.

Appeal Ref: APP/B1930/D/19/3242901

Alpha House, Station Road, Smallford, St Albans, Herts AL4 0HD

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr J Colletti of Glinwell PLC against the decision of St Albans City & District Council.
 - The application Ref 5/2019/2580, dated 14 October 2019, was refused by notice dated 22 November 2019.
 - The development proposed is described as: single storey rear extension 4m in height x 8m in depth with 3m height to eaves and extending 8m in total beyond the rear wall of the original dwelling.
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3 (1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015) for a single storey rear extension at Alpha House, Station Road, Smallford, St Albans, Herts AL4 0HD in accordance with the details submitted pursuant to Article 3(1) and Schedule 2, Part 1, Class A of the GPDO 2015 through application Ref 5/2019/2580, dated 14 October 2019, and the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; proposed block plan; existing ground floor plan; existing elevations (1 of 2); existing elevations (2 of 2); proposed ground floor plan; proposed elevations (1 of 2); and proposed elevations (2 of 2).

Background and Preliminary Matters

2. I have sought agreement between the main parties regarding the dimensions of the appeal proposal, as the height of the extension referred to in the description of development in the banner heading is incorrect. An alternative description of development has been provided by the main parties. However, in allowing this appeal I have simplified this by removing the reference to dimensions as these are detailed in the submitted drawings. In doing so I do not consider that any party has been prejudiced as the height of the proposed extension is less than was originally described and consulted on, while the scheme before me has not been amended.
3. Schedule 2, Part 1, Class A.1 (g) of the GPDO 2015 (Class A.1 (g)) permits the enlargement of the dwelling house providing it is single storey, extends beyond the rear wall of the original dwelling by no more than 8m in the case of a detached

dwelling and does not exceed 4m in height. In addition, the enlarged part of the dwelling house would not be within 2m of the boundary of the curtilage of the dwelling house, and the eaves height of the enlarged part must not exceed 3m.

4. Schedule 2, Part 1, Class A.4 of the GPDO 2015 (Class A.4) sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question. The Council refused to grant prior approval on the basis of the above as the proposal in their view does not relate to a "dwelling house".
5. The dispute between the main parties is broadly based on whether the appeal building is a "dwelling house", and if it should therefore benefit from the permitted allowances of Class A. On the basis of the evidence that is before me, there is no suggestion that the proposed development would not meet the remaining parts of paragraph Class A.1(g), and that it would accord with the provisions of paragraph Class A.4, in so far as they relate to the procedures required before the commencement of the proposal.
6. Both main parties have referred to a Planning Inspectorate Advice Note that relates to Houses in Multiple Occupation (HMOs) and Permitted Development Rights. This is not government policy or guidance, nevertheless the content of the advice refers to legislation and established case law, therefore I consider it to be material to my assessment.

Main Issue

7. The main issue in this case is whether the proposal can be considered to relate to a "dwelling house" and whether it would be permitted development under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO 2015.
8. Although I will consider whether the premises are in use as a "dwelling house" to establish whether the permitted development right applies, I am not making a legal determination as to whether the building is a dwelling house. There are separate provisions under the 1990 Act¹ for establishing lawfulness.

Reasons

9. The appeal site comprises a large detached building located within the expansive grounds of Glinwell PLC, a facility largely comprising commercial greenhouses used for growing produce. The proposal, as detailed in the plans, is for a single storey rear extension extending 8m from the rear wall of the original building, measuring 8.893m in width and 3m in height.
10. There is no statutory definition as to what constitutes a "dwelling house" and the appellant and Council both consider that it will depend on the facts of the case. I have also been referred to a legal ruling (the Gravesham judgement)² where the Courts found that a distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence.
11. From this judgement it is clear that it is the provision of the facilities required for day-to-day living (i.e. living, sleeping, washing and eating) that is the determining

¹ The Town and Country Planning Act 1990 (as amended)

² Gravesham Borough Council v The Secretary of State for the Environment and Michael W O'Brien (1982) 47 P&CR 142 (1983) JPL 307

factor. The internal size does not in itself determine whether the building is a dwelling house but rather it has a bearing on whether the facilities required for day-to-day domestic living can be accommodated.

12. During my site visit I saw that the building has nine individual bedrooms across its two floors, two shared bathrooms, a communal kitchen and a large living room. There were areas of communal storage within the property and an outdoor seating area and garden that is accessed through a door in the living room. Although the property houses a large number of individuals, I saw that it is capable of providing all the facilities required for day-to-day private domestic existence.
13. The Council's view is that the property does not constitute a "dwelling house" as it falls outside Class C4 (HMO) of the Use Classes Order³ as it exceeds the limitations of this class, i.e. a small shared house occupied by between three and six unrelated individuals. Notwithstanding this, and the number of rooms within the property, the relevant test in this case is not whether the property falls within a specific use class, but whether it is considered a "dwelling house". On this basis I have placed great weight on the Gravesham judgement, together with the facts of the case and have assessed that the property is a "dwelling house" in this respect.
14. Consequently, I conclude that the premises are in use as a "dwelling house" and therefore the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the GPDO 2015 apply.
15. Given that the dimensions of the proposal comply with the limits set out in Class A.1 (g) while the appellant has also followed the provisions laid out in Class A.4, the proposed single storey extension would therefore be permitted development.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Conditions

17. Any planning permission granted for the extension to a dwelling house under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions within the Order which specify that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion, and such notification shall include the name of the developer, the address or location of the development, and the date of completion. The GPDO 2015 states that development is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. In addition to the standard conditions that are automatically imposed by the Order I have also considered it necessary to include a schedule of plans condition in the interests of certainty.

RE Jones

INSPECTOR

³ Town and Country Planning (Use Classes) Order 1987 (as amended)