



Appeal Decision

Site visit made on 18 February 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2020

Appeal Ref: APP/J0405/W/20/3245364

Landsdowne Farm, Dean Road, Stewkley, Leighton Buzzard, LU7 0ET.

- 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) (now referred to as the GPDO).
 - The appeal is made by Mr A Screech against the decision of Aylesbury Vale District Council.
 - The application Ref. 19/04273/HPDE, dated 3 December 2019, was refused by notice dated 13 January 2020.
 - The development proposed is the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 7.99m, for which the maximum height would be 3.20m, and for which the height of the eaves would be 2.50m.
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Decision

1. The appeal is dismissed.

Procedural matters

2. I understand that the plan of the proposed extension originally submitted was drawing No. SP_01 from TAS Architects. However, the appellant seeks to introduce a revised plan for this appeal – Thomas & Spiers Architects drawing No. G/_0.02 (although the reference is partly obscured as it is overwritten by the word 'DRAFT') and is dated 02/12/2019. This plan makes a minor change to the position and extent of the proposed addition. Having regard to the principles established in the case of *Wheatcroft*¹ I am satisfied that the difference is not substantial as there would be a minor reduction in the overall length of the extension.
3. Although the 'prior approval' notification would normally proceed on the basis of the original plans, as I am minded to accept the modification put forward, consultation with the occupiers of neighbouring properties was carried out by the Council on the 26 February and the period for making representations expired on the 30 March 2020. No representations were received. I have therefore had regard to the revised drawing No. G/_0.02.

¹ *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*

Main Issues

4. The main issues are:

- whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted under Schedule 2, Part 1, Class A, of the GPDO;
- and secondly if it falls within such provisions, whether prior approval should be granted.

Reasons

Accord with Class A

5. Class A of this part of the GPDO allows the enlargement, improvement or other alteration of a dwelling house, while limitations involving development which is not permitted are set out in paragraph A.1. The relevant section in this case is A.1(e)(i) which restricts development where the enlarged part of the dwellinghouse would extend beyond a wall which forms the principal elevation of the original dwellinghouse. Also applicable are sections A.1(g) and (k).
6. In determining the principle elevation of the property, I have had regard to the guidance set out in the Technical Guidance – Permitted development rights for householders, issued by DCLG in 2017.
7. At my site visit I observed that as the elevation of the property facing mainly north fronts the highway and contains the entranceway and the main architectural features of the property, it should be regarded as the 'principal elevation'. It follows that the elevation facing mainly east is a side elevation.
8. I note that the Council found that the proposed extension in the original plan would extend beyond a wall which forms part of the principal elevation of the dwelling house, but I am satisfied that the extension as shown on the modified plan as referred to in paragraph 2 and 3 above, does not extend beyond this wall. The proposed extension is therefore not restricted by A.1(e)(i).
9. I also note that the Council no longer pursues an objection that the proposal conflicts with A.1(g).
10. However, part A.1(k)(iii) puts forward a limitation that the proposed development is not permitted if it would consist of or include "the installation, alteration, or replacement of a chimney, flue, or soil and vent pipe...". The amended plan No. G/_0.02. is annotated with the words 'Stove Flue' which on the limited information included on the plan, points towards a flue pipe emerging through the mono-pitch roof of the extension. On this basis the proposal conflicts with the limitations set out in A.1(k) (iii) and is therefore development not permitted.
11. The appellant says in his final comments that he is prepared to amend the plan again and delete the flue from the proposal but the frequent revision of a scheme post submission is beyond the reasonable scope of the formal process as set out in the guidance mentioned in paragraph 6.3 of the Council's Statement. The appellant also submits that the flue is permitted development

itself by virtue of Class G of the GPDO but the scheme submitted can only be assessed under the provisions of Class A.

12. I conclude that it has not been demonstrated that the proposed extension would meet all of the provisions of Class A of Part 1 of Schedule 2 of the GPDO and as such it is not 'permitted development. Therefore, the issue of 'prior approval' does not arise.

Conclusion

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

David Murray

INSPECTOR