



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 02 June 2020

Appeal Ref: APP/J0405/X/20/3248535

15 Beechwood Way, Aston Clinton HP22 5JW

- 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 Dan Phillips against the decision of Buckinghamshire Council - Aylesbury Area.
 - The application Ref 19/03534/ACL, dated 1 October 2019, was refused by notice dated 6 February 2020.
 - 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 a proposed two storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2020, Aylesbury Vale District Council was one of several local planning authorities to merge into a single Unitary Authority called Buckinghamshire Council. Accordingly, although the LDC application was determined by the former it is proceeding as an appeal in the name of the latter.
3. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council have agreed to the appeal proceeding on this basis.
4. Pursuant to his appeal, the appellant has submitted a plan that did not form part of the LDC application: "0447-12-19-11A-Proposed Site Dimension Plan" (the new proposed plan) with a note that it should supersede previously submitted plans. The parties are in agreement that the new proposed plan is accurate, including as regards the relationship of the proposed extension to the boundaries of the dwelling's curtilage.
5. Notwithstanding that the description of the development set out in the application form was for a "3m x 3m two storey extension to the rear", it is clear from the appeal documents (including the new proposed plan) that the proposed development for which the appellant is seeking a LDC is a two storey rear extension 2.8m wide and 2.6m deep. The Council dealt with the proposal on this basis and so shall I.

Main issue

6. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

7. Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.1 (h (ii)) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not permit the enlargement, improvement or other alteration of a dwellinghouse where the enlarged part of the dwellinghouse would have more than a single storey and be within 7m of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse.
8. The appellant says that that there would be more than 7m from the rear of the proposed extension to the boundary. He says that the new proposed plan indicates this. I have considered the plan carefully.
9. However, the boundary of the dwellinghouse's curtilage opposite its rear wall is not parallel with it. The distance to this boundary from both the rear wall of the original dwelling and from the proposed enlargement varies along its length. Notwithstanding that the distance between the westerly section of boundary and the proposed enlargement would be more than 7m, the distance would be less than 7m at other points of the boundary and particularly towards the east of the site. Page 21 of *Permitted Development Rights for Householders – Technical Guidance*¹ is clear that the measurement should be taken from the enlarged part of the dwellinghouse to the nearest part of the boundary of the curtilage opposite the rear wall.
10. Therefore, the enlarged part of the dwellinghouse would have more than a single storey and be within 7m of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse. Accordingly, the proposal would not be permitted development.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed two storey rear extension was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR

¹ Permitted Development Rights for Householders – Technical Guidance (Sept 2019), MHCLG