



Appeal Decision

Site visit made on 28 July 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/V5570/X/19/3239553

9 Ferriby Close, Islington, London N1 1XN

- 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 Peter Mann against the decision of the Council of the London Borough of Islington.
 - The application Ref P2019/1748/COLP, dated 28 July 2019, was refused by notice dated 23 September 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 described as a proposed single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have been able to appreciate the orientation of the appeal property from an external inspection, together with the information submitted, including drawings provided by the appellant. On this basis it has not been necessary for me to enter the appeal property to determine this appeal.

Main Issue

3. The main issue is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

4. Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse, subject to conditions and limitations. One of the limitations is A.1(e)(i) which states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall which forms the principal elevation of the original dwellinghouse.
5. In this case there is a dispute between the main parties over whether the proposed extension would extend beyond a wall which forms the principal

elevation of the original dwellinghouse or not. Technical Guidance¹ exists which is an aid to interpretation and application of the Order. It defines 'principal elevation' as follows:

"In most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation."

6. From all of the information available to me, including my observations at my site visit, the principal elevation of the house which is the subject of this appeal is that which fronts Ferriby Close. I have taken this view as Ferriby Close is the main highway serving the house and it is on this side that the front door of the property is found. This is evidenced by the presence of the combination of its letter box and door number signage. At my site visit I saw this is consistent with other houses on Ferriby Close. Therefore, the extension proposed would extend beyond a wall which forms the principal elevation of the original dwellinghouse and so it is not permitted development.
7. I appreciate the appellant's view that the Bewdley Street elevation has the character of a principal elevation because of, for example, the size of its windows at first floor level relative to those on the Ferriby Close elevation and as an access into the property exists from Bewdley Street via a garden gate. But these factors do not change my overall conclusion in light of my findings above and the content of the Technical Guidance.
8. The appellant requested that the inside of the property be inspected as, in his view, from the internal arrangement it seems as if the property faces Bewdley Street. Even if that is the case, the internal arrangement of the property is not a determinative factor set out in the Order or the Technical Guidance. So viewing the interior would not make any difference to the outcome of this appeal.
9. I have taken into account the appellant's view that Ferriby close is not a highway or public road. But the Technical Guidance is clear that for the purposes of the Order, "highway" includes unadopted streets or private ways.
10. I appreciate that the existing dwelling may be 'top heavy', with no ground floor living room and that it may be more suitable for modern living with the additional accommodation which is proposed in materials to match existing. But these are planning merits of the development and as is set out in Planning Practice Guidance², planning merits are not relevant at any stage in an LDC application or appeal.

¹ Ministry of Housing Communities & Local Government, Permitted development rights for householders – Technical Guidance, September 2019

² Planning practice guidance, Lawful development certificates, Paragraph: 009 Reference ID: 17c-009-20140306

11. The appellant states that the new extension would not be visible from the public realm and would match an extension two doors down. But these are also planning merits of the development so I cannot take them into account. Moreover, from the information available to me, the neighbouring extension referred to is a rear extension which is not the case for that which is before me in this appeal, despite how it has been referred to in the submission by the appellant.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of this proposed single storey 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.

L Perkins

INSPECTOR