



Appeal Decision

Site visit made on 17 August 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/P4225/X/20/3254547

12 Whitfield Crescent, Newhey OL16 4NA

- 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 David Lomax against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 20/00129/CPL, dated 5 February 2020, was refused by a notice dated 14 April 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 described as: Extension to the rear original detached house, projecting 4m, max height no more than 4m from ground level, no more than 3m to the eaves from ground level.
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Decision

1. The appeal is dismissed.

Main Issue

2. Section 192(2) of the Town and Country Planning Act 1990 as amended (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.

Reasons

3. The proposed development is for a single storey rear extension to an existing bungalow. The proposal includes the provision of a set of steps and a landing platform which would adjoin an existing raised patio area. The appellant advises that due to the existing land levels the steps are required as a means of emergency access. The enlargement, improvement or other alteration of a dwellinghouse is permitted by Class A, Part 1, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), subject to limitations set out in A.1 and A.2 and conditions at A.3 and A.4.

4. The Council considered that the proposed development would not comply with the limitations at Class A.1 (k)(i) of the GPDO, but is content that the proposal would accord with all the other limitations and conditions within Class A. In relation to the latter, I see no reason to take a different view. I shall focus upon whether the proposed development accords with the limitations at Class A.1 (k)(i).
5. The limitation at Class A.1 (k) (i) is that development is not permitted by Class A if it would consist of or include the construction or provision of a veranda, balcony or raised platform. For the purposes of interpretation of Part 1, the GPDO advises that "*raised*" in relation to platform means a platform with a height greater than 0.3 metres.
6. The appellant does not dispute the height of the steps/landing platform which clearly exceeds 0.3 metres in height. However, the appellant states that there are already steps to access the existing raised patio and these would just be relocated to provide egress from the extension for emergency purposes. In addition, the proposed landing platform to the steps would only be comprised of two flags.
7. I noted on my site visit that a set of steps currently provide access to the existing raised platform at the rear of the property. Those steps are currently sited in the location of the proposed extension and the existing raised patio would then adjoin the proposed extension. However, the existing steps currently provide direct access onto the raised patio, whilst the steps that form part of the proposed development would have a landing platform which would adjoin the proposed extension. Although the proposed landing platform would be quite small, it would still be a raised platform and would provide access to the proposed extension as well as extending the area of the existing raised patio. Furthermore, the Government's Technical Guidance on Permitted development rights for householders, September 2019 states that a raised platform is any platform with a height greater than 0.3m. Therefore the size of the platform is not relevant.
8. The proposed development would therefore include the construction of a raised platform. It would not be permitted development within Class A, Part 1, Schedule 2 of the GPDO.

Conclusion

9. For the reasons give above, I conclude that the Council's decision to refuse to grant a certificate of lawful use or development in respect of an extension to the rear original detached house was well founded and that the appeal should fail. I will exercise accordingly the powers to transferred to me in section 193 (3) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR