



Appeal Decision

Site visit made on 12 August 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/D1265/X/20/3245410

The Old Rectory, B3081 High St to Handley Hill, Sixpenny Handley SP5 5NT

- 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 Steven Warrack against the decision of Dorset Council.
 - The application Ref 3/19/1084/CLP, dated 9 May 2019, was refused by notice dated 27 August 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 development is sought is: Construct an oak framed lean-to with open sides and a tiled roof 5m x 3.6m x 4m.
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Summary of Decision

1. The appeal is allowed and a certificate of lawful development is issued, in the terms set out below in the Formal Decision.

Preliminary Matters

2. In the interests of brevity, I have adopted the description of the proposed development from the Council's decision notice, although I have had full regard to the wording originally provided by the appellant on the application form.
3. During my site visit I could see that a lean-to extension had been constructed. The appellant has since confirmed that this was constructed after the appeal application was submitted to the Council, that it accords with the submitted details, and that he is now happy for me to determine the appeal under s191 of the Act, for an existing development. My assessment and the main issue will remain unchanged as a result and so injustice to the parties would not arise from this course of action.

Main Issue

4. The main issue is whether the Council's decision to refuse a certificate of lawfulness for a lean-to extension is well founded.

Reasons

5. In cases such as this the onus is on the appellant to demonstrate, on the balance of probabilities, that the lean-to extension is permitted development by virtue of Schedule 2, Part 1, Class A of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

6. The site accommodates a large former rectory of period character and detailing, set within a good-sized plot. The development relates to a lean-to extension on the northern elevation.
7. The only dispute between the parties centres on establishing the principal elevation of the dwelling (usually what is understood to be the front of the house). As the dwelling is situated on Article 2(3) land, the lean-to extension could only be permitted development if it is then situated at the rear. The rear wall of the house will be that which is directly opposite the principal elevation. The appellant contends that the principal elevation is the southern elevation, whilst the Council consider it to be the eastern elevation.
8. The Government's technical guidance¹ concerning permitted development rights provides advice on establishing the principal elevation of a dwelling:

"Principal elevation" – 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.
9. I could see during my site visit that the eastern elevation of the dwelling is situated closest to the road. However, it also consists of a series of single-storey projections and what has been described by the appellant as the 'tradesman' entrance, as this could be accessed separately from the road to avoid the main driveway. The rooms therein consist of a garden store, coal store, game larder and utility room. The eastern elevation does not contain the main architectural features of the property, with smaller windows and, overall, less detailing.
10. The southern elevation of the dwelling, by contrast, has large windows, architectural detailing and a degree of symmetry. The front door is recessed by means of a porch situated alongside. It contains the main architectural features of the house, particularly in respect of ornate fenestration. Given the historic character of the property, it then provides for commanding views over the surrounding countryside.
11. Evidence in the form of historic mapping has also been provided which demonstrates on the balance of probabilities that the dwelling has historically been approached by a driveway to the south. This provides some assistance as to the layout of the wider site and adds weight to the contention that the southern elevation is the principal elevation.
12. Whilst this property amounts to one of the less usual cases, the southern elevation is in my view what is understood to be the front of the house. It is grandiose in comparison. Given the historic character of the property I take the view that the appellant has satisfactorily discharged the burden of proof to demonstrate on the balance of probabilities that this forms the principal

¹ MHCLG, Permitted development rights for householders, Technical Guidance, September 2019

elevation of the dwelling, and would likely have been designed as the main façade. It therefore follows that the lean-to extension on the northern elevation is permitted development.

Conclusion

13. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful development in respect of an oak framed lean-to with open sides and a tiled roof 5m x 3.6m x 4m was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

14. The appeal is allowed and attached to this decision is a certificate of lawful development describing the proposed operation which is considered to be lawful.

Paul T Hocking

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 12 August 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and coloured red on the plan attached to this certificate, were lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The lean-to extension is permitted development by virtue of Schedule 2, Part 1, Class A of the Town and Country (General Permitted Development) (England) Order 2015.

Signed

Paul T Hocking

Inspector

Date: 24 September 2020

Reference: APP/D1265/X/20/3245410

First Schedule

Oak framed lean-to with open sides and a tiled roof 5m x 3.6m x 4m

Second Schedule

Land at The Old Rectory, B3081 High St to Handley Hill, Sixpenny Handley SP5 5NT

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 24 September 2020

by **Paul T Hocking BA MSc MRTPI**

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DO NOT SCALE

