



Appeal Decision

Site Visit made on 25 May 2021 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/P3040/D/21/3271003

31 Bley Avenue, East Leake, Loughborough LE12 6NX

- 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 A4 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended)
 - The appeal is made by Mr Tim Wilmott against Rushcliffe Borough Council.
 - The application Ref 21/00350/PAA, is dated 1 February 2021, was refused by notice dated 12 March 2021.
 - The development proposed is single storey rear extension measuring 5.5m from the rear of the dwelling, having a ridge height of 4m and an eaves height of 2.5m.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The description of development on the application form is a descriptive explanation of the proposal rather than an identification of the operational development. Therefore, in the interest of clarity, I have considered the proposals based on the description of development taken from the Council's decision notice, which I have also used in the header above.

Main Issue

4. Whether the development would be granted planning permission by Schedule 2, Part 1, Class A of the General Permitted Development Order (GPDO).

Reasons for the Recommendation

5. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the Local Planning Authority (LPA) may refuse the application where it considers that the proposed development does not comply with – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the

- conditions, limitations or restrictions that are applicable to such permitted development (PD).
6. The only part of Class A in dispute in this appeal is compliance with A.1.(j), which states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (i) exceed 4m in height, (ii) have more than a single storey or, (iii) have a width greater than half the width of the original dwellinghouse.
 7. 'Original dwellinghouse' is defined in the GPDO as the house as it existed on 1st July 1948 or, if built after this date, how it was originally built. No 31 has a single storey rear element that extends across approximately one third of the rear of the dwelling, a feature also found on the attached dwelling No 32 and on other dwellings along Bley Avenue. The conservatories to the rear of both No 31 and No 32 are not evident on other houses and are individually designed, and as such appear to be later additions. Consequently, based on the information before me, on the balance of probability I consider that the original dwellinghouse in this case includes the single storey rear element but not the conservatory.
 8. The proposal would remove the conservatory and infill between the shared boundary and the existing single storey element, including replacing its roof. The Technical Guidance¹ indicates that a wall forming a side elevation will be any that cannot be identified as being a front wall or a rear wall. The flank wall of the rear element cannot be identified as a front or rear wall and therefore, is a side wall. Consequently, the proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse.
 9. In such circumstances a proposal must meet all of the limitations in A.1.(j)(i) to (iii) in order to constitute PD. While it would comply with A.1.(j)(i) and (ii) in terms of its height, the proposal would have a width greater than half the width of the original dwellinghouse and would not therefore comply with A.1.(j)(iii). Therefore, the proposed development would not be granted permission by Schedule 2, Part 1, Class A of the GPDO.

Other Matters

10. Given my findings, it is not necessary for me to consider the impact of the proposal on the amenity of neighbours. If an application for planning permission were made the planning merits of the scheme would be considered, having regard to any comments from neighbouring occupiers. While I appreciate that the appellant may incur costs in making another application, this is not a matter I can consider in this type of appeal, which deals only with the matters set out in the GPDO.

Conclusion and Recommendation

11. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

¹ Technical Guidance: Permitted Development for Householders (Published 2019) page 22

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

L McKay

INSPECTOR