



Appeal Decision

Site visit made on 8 June 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/N4720/X/20/3265382

Redcot, Newall Mount, Otley, West Yorkshire LS21 2DY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) 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 James Smith against the decision of Leeds City Council.
 - The application Ref 20/06268/CLP, dated 6 April 2020, was refused by notice dated 9 December 2020.
 - The application was made under section 192(1)(b) of the 1990 Act as amended.
 - The development for which a certificate of lawful use or development is sought is described as "a single storey rear extension".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In this type of appeal, the onus of proof is firmly upon the appellant. For the avoidance of doubt, the planning merits of the proposal are not relevant, and they are not an issue for me to consider in the context of an appeal under section 195 of the 1990 Act as amended.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a lawful development certificate (LDC) was well-founded.

Reasons

4. The appellant's case is that the proposed development would fall within that 'permitted' under Article 3 and Schedule 2, Part 1, Class A to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), which grants deemed planning permission for development involving the enlargement, improvement or other alteration of a dwellinghouse, subject to conditions and limitations. Under A.1(e) development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall which (i) forms the principal elevation of the original dwellinghouse.
5. The Council is of the opinion that the extension would extend beyond a wall forming the principal elevation of the original dwellinghouse and so it would not be permitted development by virtue of A.1(e) of the GPDO.
6. The meaning of 'principal elevation' is considered in the Technical Guidance 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".

7. The appeal property forms the end of a terrace. It is located on the corner of Newall Mount and Billams Hill, within the Otley Conservation Area. The property is constructed from red brick and render and displays architectural features consistent with the Edwardian era, such as canted bay windows with stone surrounds, timber detailing and clay tile hangings. The houses which form the terraced group were evidently designed to face south. This would allow views towards the river and would take full advantage of the sunlight and their elevated siting. Moreover, the south-facing elevation of the appeal property is relatively wide. It contains a two-storey canted bay window and a dormer window, which comprise its main architectural features.
8. The north-facing elevation, on Newall Mount, is dominated by a gabled rear addition and includes what appears to be a secondary access door. This elevation lacks the formality of the south-facing elevation and cannot be considered the principal elevation, despite the doorway and its relationship with the highway.
9. The east-facing elevation, towards Billams Hill, comprises a side gable with a bay window, which sits forward of the rear addition. Although the main entrance to the property is within this elevation, its form and features are not consistent with a principal elevation. This is apparent from the gable end and the fenestration, which although similarly detailed, is less imposing than that to the south elevation.
10. The property is unusual in that the south elevation does not contain an entrance. Nonetheless, this elevation retains the formal appearance and design features of a main or principal elevation. I appreciate that a previous Inspector described the garden adjoining the south elevation as the rear garden¹. However, this was for descriptive purposes only. That Inspector was not required to make a ruling on what comprised a principal elevation.
11. The Council is also of the opinion that the development proposed would not be permitted as it would be clad with cement render. Under A.2, in the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles. The site is within the Otley Conservation Area, which constitutes article 2(3) land, and the proposed extension would be constructed from blockwork and clad in render. As such, the development would not be permitted by virtue of A.2.

¹ APP/N4720/D/19/3237875.

12. I find, therefore, that the extension would not be permitted development under the provisions of Schedule 2, Part 1, Class A of the GPDO and express planning permission would be required.

Conclusion

13. 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 "single 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.

Debbie Moore

Inspector