



Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/Z5630/X/21/3268212

100 Wolsey Drive, Kingston Upon Thames KT2 5DW

- 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 Neil Taylor against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
- The application Ref 20/02007/CPU, dated 18 August 2020, was refused by notice dated 13 October 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 a 3m rear extension.

Summary of Decision: The appeal is dismissed.

Main Issue

1. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would constitute permitted development by virtue of the provisions of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

2. Class A, Part 1 of Schedule 2 of the GPDO allows for the enlargement, improvement or other alteration of a dwellinghouse. However, this is subject to conditions, including A.1 (j)(iii) 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 have a width greater than half the width of the original dwellinghouse.
3. Permitted development rights for householders Technical Guidance September 2019 (Technical Guidance) states that a wall forming a side elevation of a house is any wall that cannot be identified as being a front or a rear wall. The Technical Guidance goes on to state that houses will often have more than two side elevation walls. Where an extension is beyond any side wall, the restrictions in A.1(j) will apply.
4. The appellant contends that the proposal would be at the rear of the property and the part of the building in contention is the rear ground floor bay. I do not dispute that the proposed extension would be to the rear of the property, but in my judgement the rear bay contains walls that cannot be described as rear

walls. Therefore, they must, by definition, form walls which are part of the side elevations of the original dwellinghouse.

5. Since the enlarged part of the dwelling would extend beyond those side walls and would also have a width greater than half the width of the original dwellinghouse it cannot fall within permitted development according to the provisions of the GPDO.

Conclusion

6. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC in respect of the proposal to build a 3 m rear extension was well-founded and the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

Formal Decision

7. The appeal is dismissed.

A A Phillips

INSPECTOR