
Appeal Decision

Site visit made on 1 November 2021

by P N Jarratt BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 November 2021

Appeal Ref: APP/U1105/X/21/3281313

1 Woolbrook Rise, Sidmouth EX10 9UB

- 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 Paul May against the decision of East Devon District Council.
 - The application Ref 21/2038/CPL, dated 26 July 2021, was refused by notice dated 4 August 2021.
 - The application was made under section 192(a) the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a proposed single storey rear and side extension.
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Decision

1. The appeal is dismissed.

Procedural matters

2. For the avoidance of doubt the planning merits of an existing use are not relevant and they are therefore not an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990, as amended, which relates to an application for an LDC. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main issue

3. I consider the main issue is whether the council's decision to refuse to grant an LDC was well founded.

Reasons

4. The appeal site is a detached bungalow on a corner plot at the junction of Woolbrook Rise and Woolbrook Meadows with open plan front and side gardens.
5. The LDC was refused on the grounds that the proposed single story rear and side extension would not comply with one of the conditions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, in that the proposed enlargement would project beyond the wall which forms the principal elevation of the original dwelling house.

6. The appellant's appeal is on the basis that the side extension is in line with the front of the existing garage which is part of the original dwelling and the front of the garage is defined as the principal elevation.
7. Drawing 3031 1A shows that the proposed development consists of two elements, the first being a rear extension to provide a large dining kitchen. The second element is an extension comprising a flat-roofed garage at the side of the dwelling with its front elevation being in line with the existing garage which is proposed to be converted to a bedroom. It is this second element that the Council takes issue with.
8. The Council's assessment of the proposed development against the limitations of Class A indicates that the proposal satisfies these except in respect of Class A1(e) which states that development is not permitted by Class A if -
 - (e) The enlarged part of the dwelling house would extend beyond a wall which:
 - i) forms the principal elevation the original dwellinghouse ; or
 - ii) fronts a highway and forms a side elevation of the original dwellinghouse.
9. The principal elevation of the original dwellinghouse is the elevation facing Woolbrook Rise based on the meaning set out in the MCLG Technical Guidance 'Permitted Development Rights for Householders', September 2019.
10. Both sides of the existing garage project forward of the line representing the front of the main part of the dwelling and this is shown clearly on the existing front and side elevations and on the existing ground floor plan. Although the right hand part of the principal elevation is probably only a brick's width in length, it is the continuation of this line that means that any extension forward of the line would require planning permission.
11. The appellant has submitted an extract from the Technical Guidance which illustrates what will or will not be permitted development. The top illustration clearly shows what constitutes the principal elevation and a line for determining what constitutes 'extends beyond a wall'. The length of wall to the right of the right-hand bay window in the illustration is similar to the relationship of the garage projection and principal elevation of the appeal property.
12. As the proposed development does not satisfy this aspect of the limitations, the proposed development as a whole is not permitted development and would require planning permission.

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 use or development in respect of the proposed single storey rear and side extension was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

P N Jarratt

Inspector