The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2022

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Appeal Ref: APP/Z4718/X/21/3282581
3 Chestnut Meadows, Mirfield WF14 0HH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr E Wainwright against the decision of Kirklees Metropolitan Council.
- The application ref 2020/CL/92470/E, dated 30 July 2020, was refused by notice dated 8 July 2021.
- The application was made under section 191(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 detached hobbies room.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing operation which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded. This turns on whether the hobbies room is development permitted by Class E of Part 1 of Schedule 2 of *The Town and Country Planning (General Permitted Development) (England) Order 2015* (as amended) ('the GPDO').

Reasons

Assessment against the GPDO

3. The appeal property is in a block of 4 houses in a corner location. The block as a whole presents what appears to be a front elevation to Redlands Close. The arrangement is such that No 3 does not have a conventional front elevation. Rather it has a gable end elevation (on which the main door is located) and a rear elevation. There is a rear garden, which is where the hobbies room, a modest, flat-roofed building, has been built.

4. Class E permits buildings within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of the dwellinghouse as such. I have no reason to doubt that the building falls within that general category in terms of its purpose. However, Class E is subject to various limitations, set out at sections E.1-E.3. The Council accepts that the building is compliant with these limitations, with the sole exception of E.1(c), which says that development is not permitted if 'any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original

dwellinghouse'. Whether or not this is the case here depends on which elevation is regarded as the 'principal' one.

5. The Council argues that the rear (northwest-facing) wall is the principal elevation. In considering the matter, I have had regard to the Government publication *Permitted development rights for householders - Technical Guidance*, which provides assistance in the interpretation of the GPDO. This states:

   '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'.

6. There are only 2 elevations on this house, neither of which is a front elevation. In my judgement, the gable end (northeast) elevation is the principal elevation of the property. This is because:

   i) The gable end elevation fronts the highway, whereas the rear elevation does not. Although the rear elevation can be seen from Chestnut Meadows, it is not angled towards it. While a kink in the road adds slightly to the prominence of the rear elevation, it does not cause it to front or face the road. The gable end, on the other hand, squarely faces the road at close quarters.

   ii) The main door is located on the end elevation. This is clearly the door that visitors will approach and would typically be regarded as the 'front' door. There are patio doors on the rear elevation, but these are plainly to provide access to the garden rather than providing a public-facing means of access, and are not the main entrance to the house. The Council points out that the porch on the gable end is a later addition, but the door on this elevation would be the main entrance to the property with or without that feature.

   iii) Although the gable end elevation is limited in terms of architectural features, that is a reflection of the fairly plain style of the house. The rear elevation has more windows, but these are straightforward in style and do not make a particular feature of the rear elevation. Accordingly, the lack of features on the gable end does not mean that it is not the principal elevation.

7. The Council argues that the rear of the attached No 5, which is the mirror image of the appeal property, is the only elevation of that property in public view. However, that simply emphasises the fact that, despite their similarities, the two properties are different. The fact that the gable end of No 3 fronts the road clearly distinguishes it from No 5 and is an important consideration in my determination. Consequently, the Council's views about No 5 do not alter my view regarding the principal elevation of No 3, which is a separate matter.

8. The hobbies room is located to the rear of the house and is behind the line of the gable end elevation. It follows from this that it is not 'on land forward of a wall forming the principal elevation of the original dwellinghouse', given my conclusion that the gable end is the principal elevation.

9. The Council has concluded that the development meets the other requirements of Class E, a view I share. I conclude, therefore, that it is development permitted by Class E.

Other matter

10. The Council advises that the house is subject to a planning condition prohibiting the erection of buildings between the property and the highway without the prior written approval of the local planning authority. However, the Council does not argue that the development is affected by this condition and I do not consider that the hobbies room is between the house and the highway. Accordingly, the condition is not relevant to this determination.

Conclusion

11. 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 a detached hobbies room 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 and allow the appeal.

Peter Willows

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 30 July 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development is not situated on land forward of a wall forming the principal elevation of the original dwellinghouse and complies with the limitations and conditions set out in Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Peter Willows
Inspector

Date: 3 February 2022
Reference: APP/Z4718/X/21/3282581

First Schedule
Detached hobbies room

Second Schedule

Land at 3 Chestnut Meadows, Mirfield WF14 0HH

IMPORTANT NOTES – SEE OVER

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.

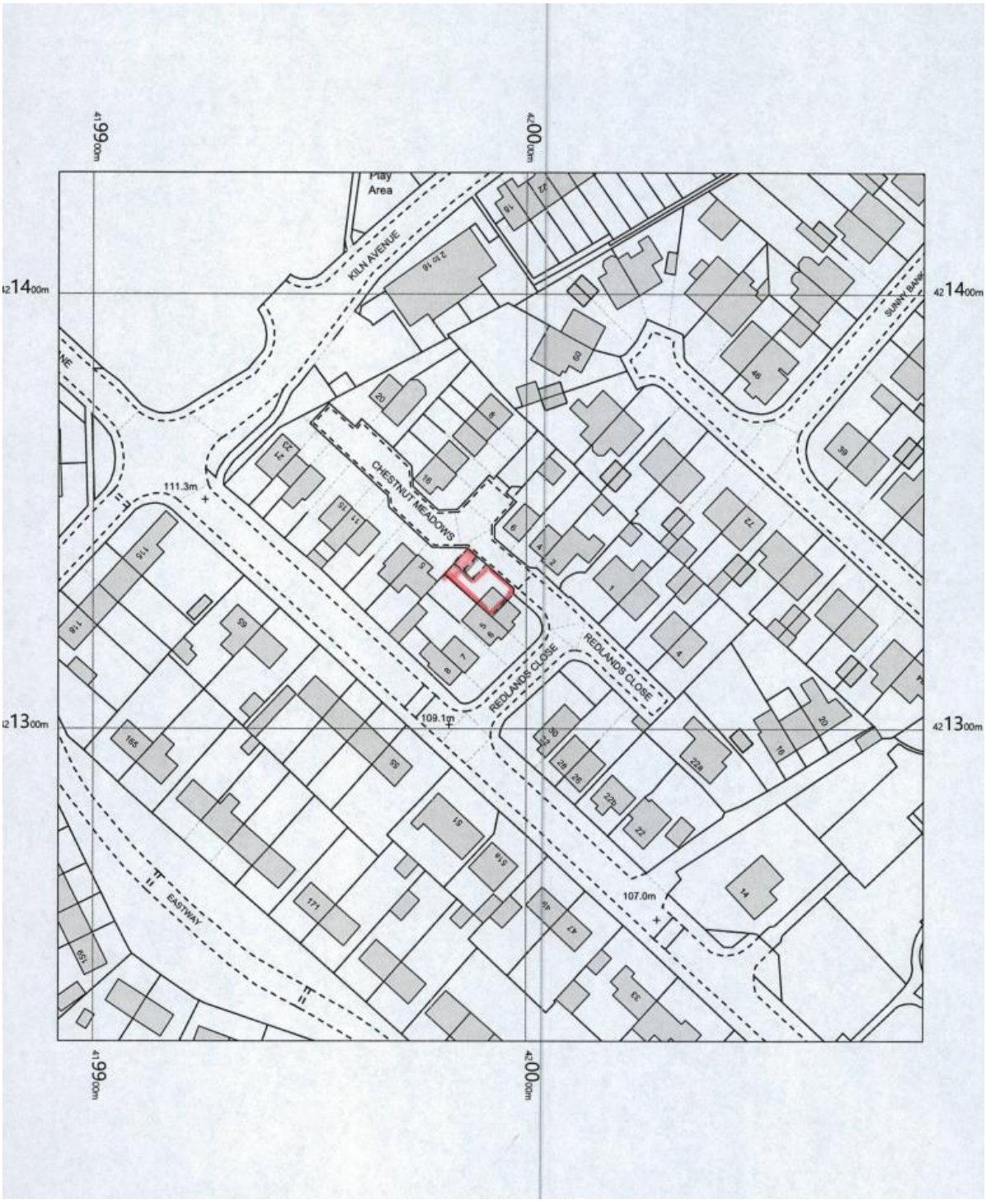
This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach 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: 3 February 2022

by Peter Willows BA MRTPI

Land at: 3 Chestnut Meadows, MIRFIELD WF14 0HH

Reference: APP/Z4718/X/21/3282581

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