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## Appeal Decision

Site visit made on 31 January 2022

**by Helen Hockenhull BA (Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>TH</sup> February 2022**

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**Appeal Ref: APP/J2373/D/21/3277572**

**153 Bispham Road, Blackpool, FY2 0NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
  - The appeal is made by Mr Mark Kershaw against the decision of Blackpool Borough Council.
  - The application Ref 21/0455, dated 28 April 2021, was refused by notice dated 1 June 2021.
  - The development proposed is the erection of a single storey detached rear extension
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### Decision

1. The appeal is allowed, and prior approval is not required under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of a single storey detached rear extension at 153 Bispham Road, Blackpool, FY2 0NN in accordance with the terms of the application Ref 21/0455, dated 28 April 2021, and the plans submitted with it.

### Procedural Matters

2. Paragraph A.4 of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GDPO), states that the local planning authority may refuse a prior approval application where the proposed development does not comply with any conditions, limitations or restrictions applicable to the development in question. The Council consider that the proposal fails to comply with category J(iii) and Ja and it is on this basis that the Council refused the application. No determination regarding prior approval was made.
3. During the appeal process, at my request, the Council undertook consultation with adjoining neighbours. As no representations were received, prior approval is not required in respect of the impact of the development on the amenity of adjoining occupiers.

### Main Issue

4. The main issue is whether the proposal is permitted development under Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

## Reasons

5. Class A of the GDPO enables the enlargement, improvement or other alteration of a dwelling house provided certain criteria are met. The appeal property has a number of single storey extensions to the rear. The proposal comprises a further single storey rear extension extending approximately 5.35 metres from the original rear elevation of the house with a maximum eaves height of around 2.99 metres. The submitted plan shows a gap of around 150 mm between the proposed extension and the existing side utility extension, demonstrating that they are not physically joined. The proposal would have a separate load bearing wall and has no direct access to the garage or toilet from the house.
6. The Council argue that the gap would not constitute a material change in the appearance to the rear of the property and that the extension, together with the existing side extension should be considered as one structure.
7. Looking at the rear elevation of the property, the 150mm between the existing and proposed extensions would provide a gap demonstrating the two extensions are not joined. Whilst I note that the gutter of the proposed extension would just overlap the existing extension, this does not in my view, alter the clear visual separation between the two extensions. Whilst I accept the gap would be minimal it would be clear that the extensions are freestanding and not joined, connected, or linked in any way.
8. I take account of the numerous appeals that have been brought to my attention by both the Council and the Appellant. The Council point to a case where a full width detached building to the rear of a dwelling had a 250mm gap, with the proposed doors adjacent to doors in the rear of the dwelling<sup>1</sup>. It was concluded that the detached building was an extension. This case is not completely comparable to the case before me here as it appears that the proposal was going to be used as an extension to the house with direct access between the two.
9. The Appellant refers to several Lawful Development Certificate appeals where the small gaps being proposed, were considered as a matter of fact and degree, to demonstrate that the buildings were not attached. Again, these cases are not completely similar to this appeal as they relate to whether the outbuildings proposed would form development ancillary to the enjoyment of the dwelling house and should be considered under Class E of the GDPO or whether they formed an enlargement to the dwelling house and should be considered under Class A. Nevertheless, they are relevant in establishing whether two structures should be considered to be joined if there is a minimal gap between them.
10. The Permitted Development Rights for Householders Technical Guidance 2019 refers to situations where there is more than one extension. It outlines that under paragraph Ja of the GDPO, the size of the total enlargement (being the proposed extension together with the previous extension to which it will be joined) will be taken into account. In this case as I have found the extensions would not be attached, the total enlargement would not be more than half the width of the original house. It would therefore accord with both paragraphs J(iii) and Ja of the GDPO.

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<sup>1</sup> Appeal ref APP/Q5300/X/19/3228822

11. I acknowledge that the provision of a gap may be seen to be a way to get round the limitations of the GDPO. Nevertheless, based on the evidence before me, I conclude that the proposal forms permitted development under Article 3(1) and Schedule 2, Part 1, Class A, of the GDPO.
12. The Council have suggested planning conditions in their questionnaire. In accordance with the GPDO, development must be completed within three years of the date of this decision and in compliance with the approved plans, so it is not necessary to repeat those conditions in this decision. Paragraph A.3 of the GDPO requires that materials used in the exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwelling. A planning condition is therefore not necessary.

### **Conclusion**

13. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Helen Hockenhull*

INSPECTOR