
Appeal Decision

Site visit made on 22 February 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2022

Appeal Ref: APP/E3715/D/22/3290084
23 Lawrence Road, Rugby CV21 3SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval 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 Aqib Farooq against the decision of Rugby Borough Council.
 - The application Ref R21/1124, dated 18 October 2021, was refused by notice dated 24 December 2021.
 - The development proposed is erection of 4.5m single storey extension to the rear of existing dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description I have used above is taken from the Council's decision notice and the appellant's appeal form.

Main Issue

3. Whether the development would be permitted development under Class A, Part 1, Schedule 2 of the GPDO.

Reasons

4. The appeal relates to a semi-detached dwelling that has previously been extended with a conservatory to the rear and a carport to the side. The proposal is for a single storey rear extension. The submitted plans show the demolition of the conservatory and a water closet. The appellant's grounds of appeal advise that it is intended for the existing side extension (carport) to be demolished prior to commencing development of the rear extension. This is not, however, what is shown on the submitted plans, including a plan that deals specifically with demolition. The appeal process should not be used to evolve a scheme and, as such, I must deal with the appeal based on the plans before me and on my assessment of the existing site.
5. Under paragraph A.1(g), Part 1, Schedule 2 of the GPDO, the enlarged part of the dwellinghouse, that would have a single storey, cannot extend beyond the rear wall of the original dwellinghouse by more than 6 m in the case of a semi-detached dwelling or exceed 4 m in height. Under paragraph A.1(i), of the

same GPDO part and schedule, where the enlarged part of the dwellinghouse would be within 2 m of the boundary of the curtilage of the dwellinghouse, the height of the eaves of the enlarged part must not exceed 3 m. There is no dispute between the parties that the proposal complies with these limitations and I see no reason to disagree.

6. The Council's decision notice, however, sets out the conclusion that the proposal would not comply with paragraph A.1 (ja). Under paragraph A.1 (ja), if the proposed extension is being joined to a previous enlargement, it will not be permitted development if the size of the total enlargement (being the proposed enlargement together with any previous enlargement) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j).
7. The appellant's submitted plans show the rear extension joined to an existing side extension (labelled as an undercroft on the plans) that extends beyond the original dwelling's rear wall (but is not attached to the rear wall). In this scenario, the enlarged part of the dwellinghouse (i.e the proposed and existing extensions taken together) would extend beyond a wall forming a side elevation of the original dwellinghouse, and would possess a width greater than half the width of the original dwellinghouse. The proposed extension would, therefore, exceed the limitations set within paragraph A.1(j)iii of the GPDO.
8. The appellant's statement asserts that the proposed extension does not extend beyond a wall forming part of a side extension of the original house. The Technical Guidance¹ is clear, however, that where development is undertaken in separate stages, the total enlargement must be considered. The appellant refers to the open sides of the existing carport, but that is not relevant given paragraph A.1(j) is referring to the side wall of the original dwellinghouse.
9. Paragraph A.4(12) allows for the granting of prior approval unconditionally or subject to conditions reasonably related to the impact of the proposed development on the amenity of any adjoining premises. A condition requiring the demolition of the existing side extension would not be related to the impact of the proposal on the amenity of adjoining premises and would not therefore be appropriate. Furthermore, whilst I appreciate the existing side extension is not a substantial structure, I am not persuaded that it is temporary given its fixed nature to the existing dwelling and ground.
10. The proposal would, therefore, exceed the limitations set within paragraph A.1(j)iii, Part 1, Schedule 2 of the GPDO and is a development for which an application for planning permission would be required. Prior approval therefore cannot be granted.
11. As the proposal does not constitute permitted development, I have no need to consider the amenity of the neighbours or to consider planning policy.

Conclusion

12. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR

¹ Page 27, Permitted development rights for householders: technical guidance (September 2019)