



Appeal Decision

Site visit made on 3 May 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2022

Appeal Ref: APP/N4720/X/21/3289159

2 Windsor Mount, Leeds LS15 7DD

- 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.
 - The appeal is made by Mr Ian Knowlson against the decision of Leeds City Council.
 - The application Ref 21/06676/CLP, dated 19 July 2021, was refused by notice dated 25 October 2021.
 - 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 Single storey extension to the rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed extension would be permitted development, having regard to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and therefore whether that extension would be lawful without the need for express planning permission.

Reasons

3. The appeal property is a two-storey semi-detached dwelling. Schedule 2, Part 1, Class A of the GPDO states that the enlargement, improvement or other alteration of a dwellinghouse constitutes permitted development. This however is subject to various limitations and conditions.
4. Paragraph A.1.(j)(iii) states that development is not permitted by Class A 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. Paragraph A.1.(ja) states that development is not permitted if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j). The Council considers that the development as proposed, would fail to meet the aforementioned limitations and that as such the extension would not be permitted development.

5. The proposed development would replace an existing rear extension. It is undisputed that the proposed development would be taller than, but have approximately the same footprint as, the existing extension.
6. From the Council's representations, undisputed by the appellant, it is evident that the original detached side elevation of the dwelling followed a staggered building line. This resulted in the main front elevation of the dwelling being narrower than the rear elevation.
7. I have had regard to technical guidance regarding the interpretation of permitted development rights¹. In terms of the original dwelling, this states that where an extension is beyond **any** side wall, the restrictions in (j) will apply [my emphasis]. There is no suggestion, in this regard, that the extension must actually adjoin the side elevation wall that it is 'beyond'.
8. The appellant does not seek to challenge the representations in the Council's statement that the proposed extension would be beyond one of the original staggered main side elevation walls. This situation was also apparent from measurements taken during my visit, and I see no reason why the GPDO restriction would not continue to apply, as in this case, where the original side wall in question has become subsumed within an extension.
9. Furthermore it is undisputed that the proposed extension would have a width greater than half the width of the original dwellinghouse. I therefore conclude that the development would not meet the requirements of paragraph A.1.(j)(iii) of the GPDO and that accordingly it would require express planning permission.
10. In addition to this, the proposed extension would be beyond the side elevation wall of a small projection, which is also undisputed to have been part of the original dwelling, but which is now demolished. This would therefore be a further reason for the proposed development failing to meet paragraph A.1.(j)(iii) of the GPDO.
11. Turning to the Council's second reason for refusing the application, the proposed extension would physically join what is actually part of the original dwelling, albeit a part of the original dwelling that subsequently became incorporated within a larger two storey extension to the side. Nevertheless it seems clear to me, following a strict interpretation of paragraph A.1.(ja) of the GPDO, that the proposed extension in this case would not actually 'join' the existing enlargement of the original dwelling. Accordingly the proposed extension would not trigger the various cumulative limitations of paragraph A.1.(ja). It would not therefore fail to be permitted development specifically in relation to this clause. This however does not overcome the conclusion that I have reached above with regard to the Council's first reason for refusal.

Conclusion

12. The proposed extension would not amount to permitted development, as set out in the GPDO, and would therefore require express planning permission.

¹ Permitted development rights for householders – Technical Guidance – September 2019

13. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of Single storey extension to the rear was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Roy Merrett

INSPECTOR