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# Appeal Decision

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 07 November 2022**

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**Appeal Ref: APP/C4235/X/22/3297505**

**11 Maple Avenue, Cheadle Hulme, Cheadle, Stockport SK8 5DT**

- 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 Ms Leanne Quinn against the decision of Stockport Metropolitan Borough Council.
  - The application ref DC/083935, dated 13 January 2022, was refused by notice dated 1 March 2022.
  - 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 for the erection of a single storey rear extension to lounge.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. It has not been necessary to carry out a site visit as, in this particular case, where all the required information is included with the application and appeal documents, a decision can be reached on the papers.
3. Section 192(2) of the 1990 Act indicates that if, on an application under that section, the council is provided with information satisfying it that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
4. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

## Main Issue

5. This is whether the council's decision to refuse to issue an LDC was well-founded. The decision turns on whether the proposal is permitted development under Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

## Reasons

6. Article 3(1) of the GPDO grants planning permission for the classes of development set out in Schedule 2 of the Order. It includes at Part 1, Class A, the enlargement, improvement or other alteration of a dwellinghouse. This is subject to the limitations set out in paragraphs A.1. and A.2. and the conditions in paragraph A.3.
7. The property is described as a semi-detached two-storey dwelling with a two-storey outrigger to the rear. The council state that, based upon the plans submitted, planning history and online aerial mapping software, the outrigger forms part of the original<sup>1</sup> house. This is not disputed by the appellant. The form of the dwellinghouse to the rear is therefore L shaped. The basis of the appeal is that the proposal does not project beyond a side wall, and it falls within the parameters of permitted development within Class A of the GPDO.
8. The Technical Guidance<sup>2</sup> published by the Ministry of Housing, Communities and Local Government (2019) assists in interpreting householder permitted development rights set out in the GPDO. It explains that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. Houses will often have more than two side elevation walls and the Technical Guidance provides example diagrams<sup>3</sup> to clarify this position.
9. The Technical Guidance also informs that where an extension fills the area between a side elevation and a rear wall, the restrictions within the GPDO on extensions beyond rear walls and side walls will both apply.
10. Class A.1(j) of the GPDO provides that development is not permitted if the enlarged part of the dwellinghouse that would extend beyond a wall forming a side elevation of the original dwellinghouse, and would: (i) exceed 4 metres in height; (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse. The evidence before me is that the width of the original dwellinghouse is approximately 6472mm. The width of the proposed single storey extension would be approximately 3386mm, which is more than half the width of the original dwellinghouse.
11. Consequently, the proposal exceeds that permitted under Class A.1 (j)(iii), Part 1 of Schedule 2 of the GPDO and express planning permission would be required.

## Conclusion

12. For the reasons given above and having regard to all other matters raised, I conclude that the Council's deemed refusal to grant an LDC was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act as amended.

*S A Hanson*

INSPECTOR

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<sup>1</sup> "Original" - means a building as it existed on 1 July 1948 where it was built before that date, and as it was built if built after that date (Technical Guidance, MHCLG 2019)

<sup>2</sup> Permitted development rights for householders

<sup>3</sup> Page 22