



Appeal Decision

Site visit made on 14 February 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2023.

Appeal Ref: APP/H1840/D/22/3304674

12 St Andrew Road, Hampton, Evesham, Worcestershire WR11 2NR

- 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 Mrs Marion Allen against the decision of Wychavon District Council.
 - The application Ref W/22/01173/GPDE, dated 17 May 2022, was refused by notice dated 27 June 2022.
 - The development proposed is single storey rear extension.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Marion Allen against Wychavon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Following the Council's refusal of the prior approval application, the appellant submitted a planning application for a similar proposed single storey rear extension. The appellant refers to the fact that planning permission has since been granted for a single storey rear extension and the extension has been built. I saw this to be the case on my site visit, although the internal works are yet to be fully completed.
4. However, as the extension has now been built it cannot be considered 'prior to development'. It follows that the extension cannot benefit from prior approval. The appeal has been superseded by events and is therefore academic. In any event, permitted development cannot be granted retrospectively.
5. Even if I had found the development could be considered under the regulations, I have found the development would not be permitted development under Class A for the reasons set out below, and is therefore development for which an application for planning permission would be required.

Reasoning

6. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'), planning permission is granted for the enlargement of a dwelling house subject to limitations and conditions.

7. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local authority may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, the conditions limitations or restrictions that are applicable to such permitted development.
8. The application is for a single storey rear extension to a semi-detached bungalow that would extend out more than 3 metres from the rear wall of the original dwellinghouse.
9. As the extension has been built, I have to rely on the submitted plans. These show the original dwelling had a stepped rear elevation, such that the kitchen was set back from the rear wall of the dwelling creating a stepped elevation with the dining room. The return wall between the dining room and kitchen creates a side elevation or wall. The parties do not dispute this.
10. Paragraph A.1.(j) deals with instances such as this where the enlarged part of the dwelling would extend beyond a wall forming a side elevation of the original dwelling. Development is not permitted by paragraph A.1.(j) if as a result the enlarged part of the dwellinghouse 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. It is this latter clause (j)(iii) that is the subject of this appeal as the Council considers the enlarged part of the dwelling would have a width greater than half the width of the original dwelling.
11. The extension would not just fill in the gap from the 'side wall' to the outer side of the dwelling nearest the driveway. Instead, the proposed extension involves knocking down the 'side wall' to create a single enlarged dining/kitchen area that would extend across the entire width of the property. The new extension would extend from the far side wall of the dining room, which forms the party wall with the adjoining semi, and across the entire width of the original dwelling. Hence the extension would have a width greater than half the width of the original dwellinghouse that remains.
12. Therefore, the development as it was proposed, would not comply with paragraph A.1.(j)(iii) of the GPDO. It would therefore not be permitted development under Schedule 2, Part 1, Class A of the GPDO and is development for which an application for planning permission would be required.

Other Matters

13. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

14. For the reasons given, the appeal is dismissed.

K. Stephens
INSPECTOR