



Appeal Decision

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/N4720/X/22/3309985

34 Springbank Road, Farsley, Pudsey, Leeds LS28 5LS

- 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 Mr Darren Bulmer against the decision of Leeds City Council.
 - The application ref 22/04405/CLP, dated 25 June 2022, was refused by notice dated 5 September 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 to build a single storey extension on the current footprint of an existing conservatory. No alterations to access. Existing dwarf wall to be built up on 1 side to roof level, other 2 sides will incorporate windows and doors, plastic roof to be replaced by tiled roof (wooden trusses) incorporating 2 sky lights (Velux type).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The completed questionnaire indicates that a site visit may be necessary as the proposed development would be located at the rear of the property. The completed appeal form does not agree. As the determination of the appeal involves the consideration of relevant planning law and facts, the main appeal parties' comments were sought in respect of whether a site visit was necessary. While the appellant suggested that the existing conservatory and neighbours' extension should be viewed in person and measured, this would not affect the outcome of the matter before me for consideration. For these reasons I find a site visit is not therefore necessary.

Reasons

3. The **main issue** is whether the Council's decision to refuse to grant a lawful development certificate was well-founded. It is for the appellant to show, on the balance of probability, that the proposal does not constitute development or that it has the benefit of deemed or extant planning permission.
4. National Planning Practice Guidance¹ confirms that an application for an LDC needs to describe precisely what is being applied for. It also advises that the refusal of an LDC may be justified where insufficient or imprecise information is provided.
5. The application form states that the appellant proposes to *'Build a single story extension on the current footprint of an existing conservatory. No alterations to access. Existing dwarf wall to be built up on 1 side to roof level, other 2 sides*

¹ Paragraph: 005 Reference ID: 17c-005-20140306

will incorporate windows and doors, plastic roof to be replaced by tiled roof (wooden trusses) incorporating 2 sky lights (Velux type)'. The first sentence of this statement alludes to the erection of a single storey extension. However, the latter sentences imply that the existing conservatory will be altered to form the proposed single storey extension. This statement by the appellant therefore lacks clarity and precision, and I will look elsewhere for clarification of what is being proposed.

6. The application form also states that the *'existing conservatory [is] to be changed to a single storey, single room extension'*. This provides further confirmation that the existing conservatory will be altered to form a single storey rear extension. I therefore find that the proposal is for the alteration of a conservatory to form a single storey extension, and I shall proceed on that basis.
7. Section 55(1A) of the 1990 Act² sets out the meaning of development. *'Building operations'* include demolition of buildings, rebuilding, structural alterations or additions to a building, and other operations normally carried out by a builder. Section 55(2)(a) sets out operations that will not be taken to be development, and these include works that do not materially affect the external appearance of the building.
8. The submitted plans of the existing conservatory and the proposed single storey extension show them having floor area dimensions of 4 metres by 4 metres, and both shown to be in approximately the same location on the dwelling. The alterations include, at least partial demolition of the conservatory, rebuilding and structural alterations to the roof to form the single storey extension. Furthermore, the roof and elevation details are significantly different in appearance, as are the materials to be used. The external appearance of the building is materially affected. The proposal therefore constitutes development, as defined by section 55(1A).
9. There is no dispute that the existing conservatory is that granted planning permission under the terms of application reference 25/264/01. While a copy of the decision notice granting planning permission for the existing conservatory has not been provided, it would be reasonable to suppose that it required the conservatory to be built in accordance with the approved plans. There is also nothing before me to suggest that application reference 25/264/01 granted planning permission for anything other than the existing conservatory.
10. The plans provided show that, at the very least, a significant proportion of the existing conservatory, including its glazing and roof, would be removed to allow the brick walls to be built up and for a trussed and tiled roof to be constructed. The single storey extension would be significantly different to the conservatory in terms of form and appearance. The single storey extension could not therefore benefit from the planning permission granted by application reference 21/264/01 as it is a substantially different development.
11. In the alternative, if I had found that the conservatory was to be replaced in its entirety, the proposed single storey extension would constitute a new building. In this circumstance, Article 3 and Class A, Schedule 2 of the GPDO³ provide deemed planning permission for the extension of a dwellinghouse, subject to

² Town and Country Planning Act 1990 as amended

³ Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

limitations and conditions. Relevant to this development, the proposed single storey extension could not project more than 3 metres beyond the dwellinghouse's original rear elevation⁴. The proposed single storey extension would project 4 metres out from the dwellinghouse's original rear elevation, thereby exceeding this permitted development limitation.

12. Class A.1(g)(i) makes provision for single storey extensions that project up to 6 metres from a dwellinghouse's original rear elevation. This is however on the condition that prior notification is given, and prior approval granted if necessary⁵. There is nothing before me to suggest that the scheme of prior notification has been followed or that prior approval has been granted or was not necessary for the proposed development. Without compliance with Class A.4, planning permission by virtue of Class A.1 (g)(i) cannot apply.
13. For these reasons, the appellant has failed to show, on the balance of probability, that the proposal is not development or that the proposed development has the benefit of planning permission. The proposal constitutes development requiring planning permission, which has not been granted.

Other Matters

14. The appellant claims that the proposed development will have no greater impact on neighbouring occupiers than the existing conservatory. I do not doubt that to be the case, however, the planning merits of the development are not before me for consideration.

Conclusion

15. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the alteration of a conservatory to form a single storey extension 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.

M Madge

INSPECTOR

⁴ Class A.1 (f)(i) of Schedule 2 of the GPDO

⁵ Class A.4 of Schedule 2 of the GPDO