



Appeal Decision

Site visit made on 14 February 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/X2410/X/23/3323887

2 Huntsmans Dale, East Goscote, Leicestershire LE7 3WX

- 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 Martin Dunn against the decision of Charnwood Borough Council.
 - The application ref P/23/0595/2, dated 31 March 2023, was refused by notice dated 9 June 2023.
 - 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 current sunroom which is not situated on concrete foundations to have new foundations installed and new roof and access from kitchen opened through existing window to make permanent extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the banner header above I have taken the description of what is proposed from the application form, as this sets out what the appellant applied for and because I have not been made aware of any agreement on the appellant's part to the description of development being modified.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a lawful development certificate was well-founded. This turns on whether the proposed development would have been lawful due to the provisions of 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 GDPO).

Reasons

4. The proposal would replace an existing sunroom to the rear of the dwellinghouse. The sunroom sits directly in between two other extensions to the dwelling, effectively filling in a gap between them. Only limited details of what is proposed have been provided. However, from what information is available, the works would include the laying of a concrete subfloor and the bringing of the roof together with the two adjacent previous extensions. The latter requirement would result in a situation where a new roof would be constructed and the intention is that this new roof would be higher than that which exists at the present time. That being the case and in the absence of anything to demonstrate otherwise, the works would extend beyond being

simply the repair or maintenance of the existing sunroom and would instead represent new development for which planning permission is required.

5. Schedule 2, Part 1, Class A of the GDPO allows for the enlargement, improvement or other alteration of a dwellinghouse as permitted development. However, Class A.2. of that part sets out several circumstances whereas development is not permitted by Class A. This includes at A.2.(ja) where 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). Of specific relevance in this instance is sub-paragraph A.2.(j) iii) which states that development is not permitted where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and it would have a width greater than half the width of the original dwellinghouse.
6. The effect of the appeal proposal being attached to the two other existing extensions is that it would fall to be considered not only as a rear extension but also cumulatively as a side extension. Taken together with the previous extensions it therefore would result in an extension with a width greater than half the width of the original dwelling. The conclusion reached by the Council in that respect is consistent with the guidance that is set out in the permitted development rights for householders: technical guidance September 2019, which outlines the specific scenario that arises in this instance. Therefore, what is proposed would not have been permitted development by virtue of its failure to comply with the requirements set out in Schedule 2, Part 1, Class A.2 of the GDPO. Consequently, the Council's refusal to grant a lawful development certificate was well-founded.

Other Matters

7. The appellant sets out that what they propose would not appear different to any other dwellings surrounding the property, would meet building regulations and would resolve current maintenance issues. However, these matters do not have a bearing upon whether what is proposed would be permitted development under the provisions of the GDPO.

Conclusion

8. 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 proposed development 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.

Graham Wraight

INSPECTOR