



Appeal Decision

Site visit made on 5 March 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

Appeal Ref: APP/P2365/X/23/3322097

Shaws Farm Caravan Park, 28 Wyke Lane, Scarisbrick, Lancashire PR9 8AA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Naomi Kirby of Abalone Estates against the decision of West Lancashire Borough Council.
 - The application ref 2023/0138/LDP, dated 14 February 2023, was refused in part by the Council by notice dated 2 May 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 'single storey side extension, 2 storey rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council issued a split decision in respect of application 2023/0138/LDP, granting an LDC in relation to the two storey rear extension, and refusing the single storey side extension. My consideration of this appeal is therefore limited to the single storey side extension.
3. The appellant details the address as 'Wyke Road' on their application form. However, the address is given as 'Wyke Lane' on their appeal form and both the appellant and the Council refer to 'Wyke Lane' in their appeal submissions. Since this appears to be the correct address for the site, I have referred to 'Wyke Lane' in the banner heading above.

Main Issue

4. The main issue of the appeal is whether the Council's decision to refuse the certificate of lawfulness was well-founded.

Reasons

5. An application under section 192(1)(b) of the Act¹ seeks to establish whether any operations proposed to be carried out in, on, over or under land would be lawful. Section 192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them 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.

¹ Town and Country Planning Act 1990 (as amended)

6. Section 191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
7. It is proposed to extend the dwellinghouse at the side and rear with a single storey extension comprising a lounge, family room and recreation room. The main thrust of the appellant's case is that the proposed development is granted planning permission by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(GPDO).
8. Part 1, Class A of Schedule 2 of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse. Development is not permitted by Class A if, subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and (i) extend beyond the rear wall of the original² dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse. The Council refused the application on the basis that the extension would extend more than 4m from the rear wall of the original dwellinghouse.
9. The dwellinghouse comprises a substantial two storey section which fronts onto Wyke Lane, and a single storey section located to the rear, which projects at a right angle from the two storey section. The appellant suggests the single storey part of the house was built at the same time as the two storey section and was used as part of the house.
10. The appellant has provided me with a map published in 1946, which appears to show the building, with the single storey rear section present. It is not disputed that the single storey section forms part of the original dwellinghouse and, given the evidence provided by the appellant, I have no reason to conclude otherwise.
11. The Technical Guidance for Householders (2019)(the Guidance) explains that the rear wall or walls of a house will be those which are directly opposite the front of the house and advises, where the original rear wall of a house is stepped, then each of these walls will form the rear wall of the original dwellinghouse. In such cases, the limits on extensions apply to any of the rear walls being extended beyond.
12. The Guidance goes on to advise that an extension on a side wall that extends beyond a rear wall, but is not attached to a rear wall will be subject to the restrictions that apply to rear walls as well as the restrictions on side walls. The example given in the Guidance shows an extension running to the right hand side of the dwellinghouse, and projecting beyond the rear wall by 3m.
13. It is the appellant's case that the rear wall of the original dwelling house that should be applied in this instance, is the rear wall of the original L shaped building, i.e., the section of rear wall furthest from the two storey section. However, consideration also needs to be given to the rear wall of the two storey section. The proposed extension would project beyond the rear wall of

² "Original" means, in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date.

the two storey section by around 18m and so would exceed the limitations set out in A.1.(f) of Part 1, Class A of Schedule 2 of the GPDO.

14. Furthermore, although the plan provided by the appellant appears to show the walls of the left hand side of the property as being in one straight line, during my site visit, I saw that this is not the case. There is a modest section of wall located along this elevation, around a door, which is stepped out and, in my view, also forms a rear wall of the dwellinghouse. This section of wall is constructed of brick and finished in render, similar to construction of the rest of the property and so is likely to have been an original feature of the dwellinghouse. The proposed extension would project beyond this section of wall by a significant distance, well in excess of 4 metres.
15. Thus, I find the proposed single storey side extension would not be permitted by the GPDO and is development for which planning permission is required.

Conclusion

16. For the reasons given above I conclude that the Council's refusal in part to grant an LDC in respect of a single storey side 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 Savage

INSPECTOR