



Appeal Decision

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05th June 2024

Appeal Ref: APP/Q3820/X/23/3331126

23 Boundary Road, Crawley RH10 8BT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Caroline Swan against the decision of Crawley Borough Council.
 - The application ref CR/2023/0541/192, dated 14 September 2023, was refused by notice dated 6 October 2023.
 - The application was made under section 192(1)(a) of the Act.
 - The development for which a certificate of lawful use or development is sought is described in the application form as 'Demolition of existing outbuilding and erection of a single storey rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. No site visit has been carried out as there is no essential need for me to see the site and its surroundings to determine the appeal on legal matters¹.
3. The application has been made under section 192 of the Act, which sets out that an LDC shall be issued if the operations described in the application would be lawful if begun at the time of the application. The onus is on the appellant to prove, on the balance of probabilities, that the development would have been lawful at that time.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the proposal would be 'permitted development'.

Reasons

5. There is no dispute that the proposal would comprise development requiring planning permission, with regard to sections 55 and 57 of the Act. Planning permission is granted for the enlargement, improvement or other alteration of a dwellinghouse subject to limitations and conditions by Article 3(1) and Class A of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Such works are referred to as 'permitted development'.

¹ Certificate of lawful use or development appeals: procedural guide (December 2022). Paragraph 7.2.11.5. states: A site visit won't be needed for every appeal. It is for the Inspector to decide whether to conduct one.

6. For the extension to comprise permitted development it would need to comply with all limitations and conditions set out in Class A. Limitation A.1(j)(iii) states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse.
7. Article 2(1) of the GPDO clarifies that in relation to a building which is not on Crown land (as is the case in this instance), 'original' means the building as existing on 1 July 1948 or, if it was built on or after that date, as so built.
8. There is no dispute that a single storey rear projection shown on the existing plans is part of the original dwellinghouse. The plans clearly show that it adjoins the dwellinghouse and that it is connected internally by a doorway. The single storey rear projection would be demolished to make way for the proposed full width rear extension.
9. The Government's Technical Guidance² 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. With this in mind, the single storey rear projection to be demolished includes a wall forming a side elevation of the original dwellinghouse. As the proposed extension would stretch across the full width of the property, it would have a width greater than half the width of the original dwellinghouse. The proposal would not therefore accord with limitation A.1(j)(iii) of Class A.
10. The intention is to demolish the existing single storey rear projection before erecting the proposed extension. The single storey rear projection and its wall forming a side elevation of the original dwellinghouse would not therefore exist when the proposed extension is erected. However, the proposed extension would extend beyond the line of an original side elevation wall.
11. The development may well accord with limitations A.1(f) and (i) of Class A, but it would need to accord with all limitations of Class A to be permitted development. As it would not accord with limitation A.1(j)(iii), no planning permission is granted for the development by the GPDO.
12. The proposal would comprise development requiring planning permission and it would not be permitted development. I have not been referred to any planning permission the development would benefit from. The development would not therefore have been lawful if begun at the time of the application.

Conclusion

13. 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 demolition of existing outbuilding and erection of a single storey rear 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 Act.

L Douglas

INSPECTOR

² Permitted development rights for householders, September 2019