



Appeal Decision

Site visit made on 30 April 2024

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/G2245/X/23/3334637

Ranmoor, Bayleas Hill, Sevenoaks Weald, Kent TN14 6HS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development [hereafter referred to as "LDC"].
 - The appeal is made by Mr Craig Norton against the decision of Sevenoaks District Council.
 - The application Ref 23/02860/LDCPR, dated 2 October 2023 was refused by notice dated 30 November 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 a proposed single-storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons why the Council consider that the proposed development would fall outside a householder's permitted development entitlement is that the proposed development would fail to meet the requirements of Schedule 2, Part 1, Class A (A.1, proviso j) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
3. Class A concerns the enlargement of a dwellinghouse but a restriction applies where the enlarged part of dwelling would extend beyond a wall which forms a side elevation of the original dwelling, and would, amongst other restrictions, have a width greater than half the width of the original dwellinghouse.
4. The appellant disagrees with the Council's approach, and I shall therefore assess the applicability of the said limitation against the proposed development.

Main Issue

5. The main issue is whether the Council's decision not to issue a LDC was well founded.

Reasons

6. The matter to be decided upon is whether the development, if carried out at the date of the application ie 2 October 2023, would have been lawful. The

- determination is to be made against the GPDO as subsisted at the time of the application.
7. In an appeal under s195 of the Act against the refusal of a LDC the planning merits and/or impacts of the use applied for do not fall to be considered. Instead, the decision is based strictly on the evidential facts and on relevant planning law. The burden of proof is on the appellant, and I shall reach my decision on the various evidence before me and also the observations made at my site visit.
 8. The appellant's drawing no M12-1936:01C, which shows the dwelling's existing ground floor layout ringed in red, highlights the footprint of the original house. This indicates that it has already been extended and, particularly related to the current appeal, with the addition of a study and playroom.
 9. The proposal at appeal involves building works to provide a new dining room and also a TV room; the latter building onto and projecting the original dwelling's side wall. The appellant suggests that where an extension fills the area between a side elevation and a rear wall it must be physically connected to a side elevation, then it would not fill the gap, and the restrictions on extensions beyond side walls would not apply. In considering the appeal proposal as a case in point, the appellant goes on to say that the restrictions on extensions beyond rear walls and side walls will then both apply, and he implies that this would help his case.
 10. From drawing no. M12-1936:10, which shows the ground floor layout, as proposed, it is clear that the only gap that would be created is between the facing side walls of the existing study and the proposed TV room. However, this has no bearing on Class j's limitations. As mentioned, the crux of the matter is that the original side wall which comprises the existing dining room's projection beyond the living room's rear wall, is being extended rearwards. Also, the intended extension would have a width greater than half the width of the original dwellinghouse. The proposal, as presented, therefore, amounts to a development for which the benefit of planning permission is required.
 11. The appellant has referred to the fact that a LDC was issued in 2012 for proposed works at the property which would have included the proposed extension. Irrespective of this previous decision my remit is to determine the current appeal in accordance with current legislation. In instances where a LDC may have been previously incorrectly issued it is not for me to revisit that case.
 12. As mentioned, the current appeal relates only to the proposal's compliance with the relative provisos at the date the application was made. For the reasons given above I conclude, on the evidence submitted, that the Council's refusal to grant a certificate of lawful use or development in this instance was well founded, and the appeal should be dismissed. Accordingly, I shall exercise the powers transferred to me under section 195(3) of the 1990 Act, as amended.

Timothy C King

INSPECTOR