
Appeal Decision

Site visit made on 31 October 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 21st November 2024

Appeal Ref: APP/B3030/X/24/3337169

High Park Farm, Cross Lane, Blidworth, Mansfield, Notts NG21 0LX

- The appeal is made by Max Lee under section 195 of the Town and Country Planning Act 1990 against a refusal by Newark & Sherwood District Council to grant a lawful development certificate.
 - The application Ref: 23/01667/LDCP, dated 19 September 2023, was refused by notice dated 23 November 2023.
 - The application was made under section 192(1)(b).
 - The development for which the certificate is sought is:
"Lawful development certificate for proposed first floor rear extension, including the addition of photo-voltaic solar panel(s) to the detached garage roof, replacing French door with bifold doors, widening existing access gateway".
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Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the proposed operations if begun at the time of the application. The planning merits of the proposed operations are not relevant to the appeal and there is no planning application before me.
 3. The Council's reasons for refusal refer only to the proposed first-floor extension and the appeal is concerned solely with this aspect of the proposed operations. (I understand that a certificate has since been granted for the other aspects of the proposed operations.)
 4. The reasons given for the Council's decision are: -
"The proposed first floor extension would project beyond the north western elevation of the dwellinghouse which forms the principal elevation of the original dwellinghouse. The proposal would not therefore be permitted development, having regard to paragraph A.1 (e) (i) of Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)."
 5. The extension would be built over an existing single-storey extension, which already extends beyond the north-western elevation of the house. It would not
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project beyond any of the existing elevations of the single-storey extension. The Council do not indicate that there would be a conflict with any provisions of the Order apart from paragraph A.1(e)(i), except that the conditions applied to permitted development by paragraph A.3(a) would not be met because the plans show that the walls would be finished in non-matching cladding and it is not clear what the glazing and height and opening arrangements of the side windows would be.

6. Paragraph A.1(e)(i) of the Order states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall which forms the principal elevation of the original dwellinghouse. Article 2(1) of the Order defines "original" as meaning (a) in relation to a building existing on 1st July 1948, as existing on that date, and (b) in relation to a building built on or after 1st July 1948, as so built. Article 2(1) defines "building" as including any part of a building.

7. The term "principal elevation" is not defined in the Order. The document *Permitted development rights for householders. Technical Guidance* published by the Government in September 2019 states that it is understood as follows:

"Principal elevation" – in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation."

8. The appellant maintains that the Council have been inconsistent in refusing the application, because in responses to householder exemption enquiries made in 2012 and 2014 they accepted, on the basis of the information supplied, that a manège and an outbuilding were permitted development, whereas they would not have been if the principal elevation of the house is the north-western elevation. On the other hand, I have noted that when the appellant applied in 2013 (ref:13/01361) for development that included an extension to the south-eastern elevation, his architect's drawings described this elevation as the rear elevation and the north-western elevation as the front elevation. It has obviously been an unclear situation for both the appellant and the Council.
9. I have pieced together the history of the house as accurately as I can from the available information. It starts with a farmhouse being built in the 19th century. In common with many farmhouses it faced the farmland and the farm buildings and had its back to the road. There is little doubt that its principal elevation when built was its north-western elevation. This contained a centrally located main door and the main windows of the house. There was also a back door in the south-eastern elevation that gave access to what appears to have been a cultivated area between the house and the road. It is unclear whether there was an access at this time between this area and the road. The overall

situation I have described in this paragraph appears to be the one that pertained in 1948.

10. Many alterations have been made to the building since 1948, reflecting its change from a farmhouse to a dwelling no longer associated with farming or the adjoining farmland. There is no suggestion that any of the alterations were in breach of planning control. The centrally located main doorway to the farmhouse has been enclosed by a pitched-roofed, 4m² porch or garden room with French windows giving access to a patio and a lawn. This no longer functions as the main entrance to the house. What was the back door has had a porch added to it. It now functions as the front door and the main entrance; it has the letter box for the house; it also has a pathway leading towards the road, across what is now the front garden of the house. Planning permission 6381606 dated 9 June 1981 authorised the demolition of an attached single-storey outbuilding and its replacement by the large part two-storey, part single-storey, extension that now exists (the single-storey element being the one described in paragraph 5 above). No further details are available about this permission, but the approval of an extension that was forward of the north-western elevation lends support to this not being the principal elevation.
11. There is no doubt that when the Government guidance set out in paragraph 7 above is applied, the principal elevation is now the elevation facing the road. That guidance does not of course override the provisions of the Order set out in paragraph 6, but taking everything into account and applying reasonable planning judgment in the light of the evident purpose of the Order, I consider that the existing building is the "original dwellinghouse" and that the proposed first-floor extension would therefore be permitted development because it would not extend beyond a wall which forms its principal elevation.
12. I have concluded that the Council's refusal of the application was not well-founded. I have not granted a certificate, however, because the application plans require amendment to demonstrate that the conditions in paragraph A.3(a) would be complied with. The appeal has been dismissed for this reason alone.

D.A.Hainsworth

INSPECTOR