



Appeal Decision

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2024

Appeal Ref: APP/R3650/X/23/3334951

Little Corries, Green Lane, Churt, Farnham, Surrey GU10 2PF

- 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 Mr Paul Martin against the decision of Waverley Borough Council.
 - The application ref WA/2023/01263, dated 2 June 2023, was refused by notice dated 28 July 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 single storey rear extension to be constructed to the rear of existing structure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal relates to the lawfulness of a proposed development, views were sought from the parties as to whether it would be necessary for me to visit the site. No objections to this course of action were received and I do not consider that injustice to the parties would arise from determining the appeal on the basis of the written evidence before me.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a lawful development certificate (LDC) was well-founded.

Reasons

4. An application under S192(1)(b) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any operations proposed to be carried out in, on, over or under land, would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities the proposed development would be lawful.
5. The proposal includes for two single-storey extensions to the rear of the appeal property. The matter in dispute is whether the extension off the living room would be permitted development.
6. Under Class A, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), the enlargement, improvement or other alteration of a dwellinghouse is permitted development. The appeal site is located within the Surrey Hills Area of Outstanding Natural Beauty and therefore paragraph A.2 is applicable, which states 'In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A

if...(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse.'

7. The GPDO does not define what is meant by the word 'beyond'. However, page 24 of the 'Permitted development rights for householders Technical Guidance' provides an example of an extension extending 'beyond' a rear wall. In the example, although the extension is not attached to rear wall 'B', it is considered to extend beyond it. Therefore, the same principle must apply when considering whether an extension extends beyond a side wall, as is the case before me. It is possible for an extension to extend beyond a side wall, even if it is not attached to it. 'Beyond' has the same meaning throughout Class A.
8. Class A makes no distinction between a 'side extension' and a 'rear extension'. A 'rear extension' needs to be assessed against the restrictions on 'side extensions' where they also extend beyond a side wall, as is the case before me. The proposed extension would not be attached to the original side wall of the dwelling. Nevertheless, having regard to the above guidance, it would clearly extend beyond the side wall of the existing bedroom. As there is no dispute this side wall is a wall forming a side elevation of the original dwellinghouse, the proposal therefore fails to satisfy paragraph A.2(b).
9. I acknowledge the appellant's argument that the Council have not determined similar proposals in a consistent manner with this one. However, the GPDO and its accompanying guidance are clear. If they have not been correctly interpreted in the past, that is not justification for them to be continually misinterpreted.
10. I therefore find that the proposal fails to meet the requirements of Class A of the GPDO and therefore would not be permitted development.

Conclusion

11. 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 construction of a single storey rear extension to be constructed to the rear of existing structure 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.

A Walker

INSPECTOR