



Appeal Decision

Site visit made on 14 January 2025

by **A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/Z4718/X/24/3345782

1 Vicarage Terrace, BATLEY, WF17 8HX

- 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 Darren Cox against the decision of Kirklees Metropolitan Council.
 - The application ref 2024/CL/90351/E, dated 6 February 2024, was refused by notice dated 4 April 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a LDC is sought is single storey kitchen/dining extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the proposed development would be permitted by virtue of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

Reasons

3. Class A, Part 1 of Schedule 2 of the GPDO relates to the enlargement, improvement or other alteration of a dwellinghouse. Development is not permitted by Class A if, among other restrictions,
 - e) *the enlarged part of the dwellinghouse would extend beyond a wall which –*
 - i. *forms the principal elevation of the original dwellinghouse; or*
 - ii. *fronts a highway and forms a side elevation of the original dwellinghouse.*
4. The principal elevation of the dwellinghouse faces Ruby Street and therefore the proposed extension would enlarge part of the dwellinghouse beyond a wall which forms the side elevation of the original dwellinghouse.
5. In addition, Vicarage Terrace which is a footpath to the north-east of the side elevation in question is an unadopted path. For the purposes of Part 1, "highway" includes an unadopted street or a private way. It is my understanding that the path is within the ownership of the Local Authority and has existed as an access to residential properties along Vicarage Terrace since they were erected in the mid-twentieth century. The access appears to have been unobstructed, allowing members of the public to pass and repass between Ruby Street and Hampson

Street. Consequently, although the path is unadopted it is a way which the public has used for a period in excess of 50 years without obstruction as a thoroughfare to the extent that accrued rights as a highway have been obtained.

6. That being the case, the extension the subject of the application fronts a highway and forms the side extension of the original dwellinghouse in conflict with permitted development rights pursuant to Class A, Part 1 of Schedule 2 of the GPDO. In coming to this conclusion, I have taken account of the appellant's comments relating to a previous application for a larger extension but they do not change my decision.

Conclusion

7. For the reasons given above I conclude that the Council's refusal to grant a LDC in respect of a single storey kitchen/dining 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).

A A Phillips

INSPECTOR