



Appeal Decision

Site visit made on 4 March 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Appeal Ref: APP/G5180/X/23/3329799

65 Pickhurst Lane, Hayes, Bromley BR2 7JP

- 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 (LDC).
 - The appeal is made by Mr & Mrs M Holland against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/01690/PLUD, dated 30 April 2023, was refused by notice dated 27 June 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 rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The certificate seeks to establish whether the works would have been lawful on the date of the application. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded. The case must be considered solely on the facts of the case, the relevant planning law and judicial authority, and its planning merits are of no relevance. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.

Main Issue

3. The main issue is whether the Council's refusal to grant the LDC was well founded. It is necessary to consider whether the proposed extension would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO).

Reasons

4. The appeal property comprise a semi-detached two storey house. The property has been previously extended with a single storey side extension.

5. Subject to limitations and conditions, Class A of Schedule 2, Part 1 of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse. Paragraph A.1 and A.2 sets out limitations which proposals must adhere to benefit from permitted development rights. There is no dispute between the parties that the development falls to be considered under Class A.
6. The Council determined that the proposed extension fails to meet Part A.1(j) of Schedule 2, Part 1, Class A of the GPDO. The relevant restriction under Part A.1(j), states that development is not permitted by Class A if the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse, and have a width greater than half the width of the original dwellinghouse.
7. Article 2 Interpretation (1) of the GPDO defines 'original' as (a) a building existing on 1st July 1948 as the building as existing on that date; or (b) in relation to a building built on or after 1st July 1948, as so built. The existing semi-detached dwelling contains single storey rear addition, which formed a garden toilet, and there is no dispute between the parties that this formed part of the original building.
8. The proposed development would comprise a single storey extension projecting 6m from the rear main wall of the main house. However, the development also projects to the side of the original ground floor rear projection, which originally comprised the 'garden' toilet.
9. The Government's Technical Guidance (TG)¹ gives an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances.
10. In the guidance for paragraph A.1(j) it states: "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 (my emphasis)." "Houses will often have more than two side elevation walls. Where an extension is beyond any side wall, the restrictions in (j) will apply. Any extension cannot be more than half the width of the original house. The width of the original house should be calculated at its widest point." The TG goes on to state that "where an extension fills the area between a side elevation and a rear wall, then the restrictions on extensions beyond rear walls and side walls will both apply. This strongly suggests to me that the exception applies in this case as it describes the situation as proposed here.
11. The appellant considers that, although the proposed development is to the side of the original rear addition (the toilet), this would not form a wraparound extension, as the original rear addition is single storey only. Nevertheless, as a matter of fact, the proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse (that being the side wall of the original ground floor toilet) and would be more than half the width of the original house, contrary to limitation in paragraph A.1(j)(iii) of Part 1, Class A of the GPDO. Therefore, the proposed extension is not development permitted by the GPDO.

¹ The Ministry of Housing, Communities and Local Government's publication 'Permitted Development Rights for Householders' Technical Guidance, September 2019

12. I appreciate that other rear extensions have been approved by the Council under certificate of lawful development². However, the starting point shall always be the wording of the GPDO (a statutory instrument) itself. I have therefore taken account of the provisions of the GPDO and the TG in the circumstances of this particular case. If there has been inconsistency in the Council's approach, then that is not a basis for coming to a different view in terms of the appeal proposal.
13. The Council has raised no other conflict against Part 1, Class A of GPDO, and I have no reason to disagree with this. However, in order to be permitted development the extension must meet all of the limitations and conditions of the GPDO, and for the reasons outlined above, the proposed development fails to satisfy Paragraph A.1(j)(iii) of Part 1, Class A of the GPDO. For this reason, express planning permission is required for the extension.

Conclusion

14. The development is not one that complies with all of the limitations of Article 3, Schedule 2, Part 1, Class A respectively of the GPDO, and hence would not have been lawful at the date of the application. I therefore conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the 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 1990 Act as amended.

R. Satheesan

INSPECTOR

² Council ref: 20/04600 60 Wickham Chase; 20/03753 1a Hampden Road; 21/02946 12 Cavendish Way; 21/03246 50 Pickhurst Rise; 22/02832 77 Manor Park Road.