



Appeal Decision

Site visit made on 6 October 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2025

Appeal Ref: APP/P4605/X/25/3370068

31 Arthur Road, Erdington, Birmingham B24 9EX

- 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 Ewan McIntosh against the decision of Birmingham City Council.
 - The application ref 2025/01483/PA, dated 12 March 2025, was refused by notice dated 7 May 2025.
 - 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 the addition of a single storey side extension to an existing rear wing of a single family dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

3. The proposal comprises a small extension to be erected on the side elevation of the existing two-storey outrigger on the appeal property, partly infilling a gap to the side of the outrigger. The extension would project from the side elevation by approximately 0.5m and have a width of approximately 4.1m.
4. Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the enlargement, improvement or other alteration of a dwellinghouse, subject to limitations and conditions.
5. Paragraph A.1(f) states 'Development is not permitted by Class A if - subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height'.
6. The Permitted Development Rights for Householders Technical Guidance 2019¹ provides guidance on what a rear wall is. It states, 'Where the original rear wall of a house is stepped, then each of these walls will form 'the rear wall of the original dwellinghouse'. In such cases, the limits on extensions apply to any of the rear walls being extended beyond.'

¹ Published by the Ministry of Housing, Communities and Local Government

7. The proposed extension would extend approximately 5.855m beyond a rear wall of the dwelling, ie the rear wall of the 'Rear Reception' room as annotated on drawing 530_AR_030_011. Therefore, it would fail to comply with paragraph A.1(f).
8. Notwithstanding the above, paragraph A.1(g), as referenced in A.1(f), states '...for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height'.
9. There is no evidence before me that the dwelling is on article 2(3) land or on a site of special scientific interest. The dwelling is not a detached property and therefore paragraph A.1(g) permits extending beyond the rear wall of the original dwellinghouse by no more than 6 metres. As the proposal would extend beyond the rear wall of the rear reception room by only 5.855m then it complies with paragraph A.1(g).
10. However, under paragraph A.4. of Class A, development that exceeds the limits of paragraph A.1(f) but is allowed by paragraph A.1(g) is subject to the condition that a prior approval process is followed. Paragraph A.4 requires householders wishing to build a larger extension, permitted under A.1(g), to notify the local planning authority about the proposed extension and it is for the local planning authority to give adjoining neighbours notice of the proposal and the opportunity to object. Works cannot commence until the local planning authority notifies the householder that no prior approval is required, or gives prior approval, or 42 days have passed without any decision by the local planning authority.
11. The appellant made an application to the local planning authority for a lawful development certificate rather than follow the prior approval process. Whilst the proposal could have been considered under the prior approval procedure, that is not the basis on which the application was made and as a consequence the Council did not notify neighbours. Therefore, the proposal does not satisfy the conditions of paragraph A.4 of Class A.
12. I find therefore, on the balance of probabilities, and considering the limitations stated in paragraph A.1 of Class A, Part 1, Schedule 2 of the GPDO, the proposal would not be permitted development and therefore would not be lawful.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant an LDC in respect of the addition of a single storey side extension to an existing rear wing of a single family dwelling was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

A Walker

INSPECTOR