



Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2026

Appeal Ref: APP/Z3635/X/25/3359327

18 Wellington Road, Ashford TW15 3RJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Danny Moore against the decision of Spelthorne Borough Council.
- The application ref 24/01289/CPD, dated 30 October 2024, was refused by notice dated 3 January 2025.
- The application was made under section 192(1)(b) of the 1990 Act (as amended).
- The development for which a certificate of lawful use or development is sought for the proposed development of a single storey side/rear extension, extending beyond the rear elevation by 6 metres.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. The description on the decision notice more accurately reflects the scope of the proposed plans which were submitted to and determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the description in the decision notice for the purposes of the heading above.
3. An LDC decision will rest on the specific facts of the case and the application of relevant and established case law. Planning merits do not form part of the consideration of an LDC appeal and thus are not relevant here. Consequently, as the determination of an LDC case is based on the evidence submitted, in this particular case it was not deemed necessary to carry out a site visit in these circumstances. Neither party has been prejudiced by this approach.

Main Issue

4. The main issue is whether the Spelthorne Borough Council's decision to refuse to grant an LDC was well founded.

Reasons

5. The appellant contends that the proposed single storey side/rear extension would be permitted by Schedule 2, Part 1, Class A of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended (GPDO), which provides for the enlargement, improvement or alterations to a house, subject to limitations. Specifically, the appellant contends that the proposal would benefit as 'permitted development' under paragraph A.1(g).

6. Paragraph A.1(g) 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*'.
7. The proposal subject to this appeal consists of a single storey flat roof extension, with a maximum height of approximately 3 metres. The extension is located on the flank elevation of a detached dwellinghouse and does not exceed half its width. The projection beyond the rear wall of the original dwellinghouse is approximately 6 metres in length. I have been presented with no evidence that the dwelling is on article 2(3) land or on a site of special scientific interest. Consequently, the proposal could comply with paragraph A.1(g) of the GPDO.
8. However, there is a neighbour consultation scheme (prior approval) for larger rear extensions under Class A, paragraph A.1(g). Paragraph A.4 requires householders wishing to build a larger extension, permitted under A.1(g), to notify the Council as Local Planning Authority (LPA) about the proposed extension and it is for the LPA to give adjoining neighbours notice of the proposal and the opportunity to object. Works cannot commence until the LPA notifies the householder that no prior approval is required, or gives prior approval, or 42 days have passed without any decision by the LPA.
9. From the information before me, no application for prior approval has been made by the appellant to the LPA, rather the appellant has sought a LDC instead. 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 LPA did not notify neighbours. Therefore, the proposal does not satisfy the conditions of paragraph A.4 of Class A.
10. Subsequently, on the balance of probabilities, and considering the limitations stated in paragraph A.1 of Schedule 2, Part 1, Class A of the GPDO, the proposal would not be permitted development and therefore would not be lawful.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development for a single storey side/rear extension, extending beyond the rear elevation by 6 metres is 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).

Robert Naylor

INSPECTOR