



Appeal Decision

Site visit made on 1 September 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2020

Appeal Ref: APP/G4240/X/20/3252226 23 Napier Street, Hyde SK14 5PZ

- 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 Peter Jackson against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 20/00019/CPUD, dated 20 January 2020, was refused by notice dated 6 March 2020.
 - 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 described on the application form as *"to extend the kitchen with a single storey extension measuring 300cm x 260cm. The height of the extension to match the existing kitchen at the property. To add a back door to the side of the extension and add a forward facing window to the extension. Roof to entail side roof window and a forward facing roof window. All building materials used to match/in keeping with the current property"*.
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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 constitute permitted development by virtue of the provisions of Class A of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

3. Class A, Part 1 of Schedule 2 of the GPDO allows for the enlargement, improvement or other alteration of a dwellinghouse. However, this is subject to conditions, including A.1(f)(i) which states that development is not permitted if the enlarged part of the dwellinghouse would have a single storey and 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.
4. The appeal property is a two storey mid-terrace property which was originally constructed with an outrigger according to Council records. The proposal description refers to the dimensions of 300cm v 260cm; the former relating to

the extension beyond the rear wall of the property. However, the submitted plans clearly show that the extension would extend 3037.5 mm beyond the rear wall of the existing outrigger which exceeds the 3 metre limit for such an extension to be considered as permitted development.

5. The appellant contends that the proposed extension meets all of the conditions set out in the GPDO in that it does not extend back from the original line of the existing property by more than 3 metres. This is because, according to the appellant, the original WC block which formed part of the outrigger has been removed. The appellant states that the row of terraces was built in 1903 and at that time properties did not generally have internal toilets and there is evidence on site that there has been another small structure attached to the existing outrigger at some time in the past. However, the details of that part of the building remain unclear in my mind and, in particular, whether it was constructed as part of the original dwellinghouse.
6. I observed at my site visit that some properties in the row of terraces have outriggers, but I also noted that the rear of some have been altered and extended in different ways, including the demolition of rear outriggers and the erection of replacement extensions and outbuildings. There is insufficient evidence for me to conclude that the extended outrigger on the adjacent property is conclusive evidence of the dimensions of the original outrigger at the appeal property, nor are the wall markings at the appeal site conclusive with respect to establishing what was part of the original property. There is insufficient remaining evidence of the historical pattern of development at the rear of the terrace to confirm the extent of the original outriggers on the row and the appeal property, in particular.
7. Consequently, on the balance of probabilities the proposed extension would extend beyond the rear wall of the original dwellinghouse by more than 3 metres and would not constitute permitted development by virtue of the provisions of Class A of Part 1 of Schedule 2 of the GPDO.

Conclusion

8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a LDC in respect of the proposal to build a rear extension was well-founded and the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

Formal Decision

9. The appeal is dismissed.

A A Phillips

INSPECTOR