

2023/1089

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91 The Walk, Birdwell, Barnsley, S70 5UB

Lawful development certificate for proposed single storey detached garden room at end of domestic garden

Site Description

The application relates to a two-storey end terraced dwelling located on The Walk, Birdwell. The dwelling has small front porch and a driveway to the side leading to an existing garage. To the rear is an existing rear extension and modest rear garden area.

Planning History

B/78/0020/WB – Erection of porch

Due to the date of the application, it cannot be confirmed if permitted development rights have been removed from the property, however given the size and scale of the existing porch it is presumed they have not been as the dwelling retains the majority of its curtilage.

Proposed Development

The application is for a certificate of lawfulness for the erection of a single storey detached outbuilding to the dwelling at 91 The Walk, under Section 192 of the Town and Country Planning Act 1990. Section 192(1) provides that if any person wishes to ascertain whether any operations proposed to be carried out in, on, over or under land, would be lawful, may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question. Section 192(4) then provides that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case shall refuse the application.

The applicant has submitted the following plans in support of the LDC application:

Drawing No.: 023039-AAD-01-GF-DR-A-0001-P02

The proposed outbuilding will be located to the northeast of the site. The outbuilding has a length of 2.5 metres and a width of 4 metres and features a flat roof with a total height of 2.5 metres.

Planning Context

For the avoidance of doubt, and to ensure proper assessment, it should be established what the principal elevation of the dwelling is. The GPDO Technical Guidance supporting document states that in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. In this case, the principal elevation is that which fronts directly onto The Walk.

The Town and Country Planning (General Permitted Development) (England) Order 2015 allows householders to extend their property provided certain criteria is met. Under Class E of Part 1 of Schedule 2 of this act, development is permitted for the provision within the curtilage of the dwellinghouse of:

- a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
- b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Development is not permitted by Class E if:

- a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);
- b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
- d) the building would have more than a single storey;
- e) the height of the building, enclosure or container would exceed —
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- f) the height of the eaves of the building would exceed 2.5 metres;
- g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- h) it would include the construction or provision of a veranda, balcony or raised platform;
- i) it relates to a dwelling or a microwave antenna; or
- j) the capacity of the container would exceed 3,500 litres.
- k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

There are other limitations on the permitted development rights for outbuildings; however, these do not apply to the application site.

For the purposes of Class E, a purpose incidental to the enjoyment of the dwellinghouse includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Other examples include common buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can properly be described as having a purpose incidental to the enjoyment of the house.

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen. This is set out in the supporting text of the 'Permitted development rights for householders – Technical Guidance', a supplementary document to the General Permitted Development Order 2015.

Assessment

The outbuilding's footprint of circa 10sqm is significantly below 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); the height of the outbuilding does not exceed 2.5 metres, the host property is not listed and the position of the outbuilding is not situated on land forward of a wall forming the principal elevation of the original dwellinghouse, again, in accordance with Class E of Schedule 2, Part 1 of the GPDO.

Buildings under Class E should be built for purposes incidental to the enjoyment of the house. The GPDO technical guidance states that a use incidental to the enjoyment of the dwelling house includes keeping of pets and other animals for personal enjoyment or domestic need of the occupants of the dwelling, as well as outbuildings such as sheds, garages etc. that are for a purpose incidental to the enjoyment of the dwellinghouse.

The applicants have listed the following uses for the building;

- Garden room

The above uses are considered incidental to the enjoyment of the house.

Recommendation

Approve