

DELEGATED DECISION REPORT

HNT/2023/0022
Valid 30/11/2023

PELISTRY 16 IVY HOUSE
ROAD
BIDDULPH

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR -
PITCHED GABLE ROOFED
EXTENSION TO REAR OF THE
PROPERTY EXTENDING
3.40M BEYOND THE REAR
WALL OF THE EXISTING
DWELLING, 3.22M MAXIMUM
HEIGHT AND 2.38M TO
HEIGHT OF EAVES

(HOUSEHOLDER
NOTIFICATION APPLICATION)

MAIN ISSUES

Compliance with the GPDO (2015)
Neighbour amenity

DESCRIPTION OF SITE

The proposed site comprises a corner plot semi-detached brick, stone and tile dwellinghouse and its associated curtilage, situated in the Biddulph North ward. Additionally, the proposed site is within the Biddulph development boundary, where positive development is encouraged to be concentrated. The site is enclosed by neighbouring dwellinghouses to the North-West and South-West. No. 14 Ivy House Road is situated to the North-West of the site and the curtilage of No. 9 Long Valley Road adjoins the site to the South-West. The Ivy House Road highway runs adjacent to the proposed site on the North and the Long Valley Road runs adjacent to the site on the East.

PROPOSAL

The proposed development consists of a single storey rear extension. The extension would have a maximum height of 3.22 metres and maximum eaves height of 2.38 metres measured externally from natural ground level. It will have a depth of 3.40 metres. Materials used in the construction of the proposed extension would match those used in the construction of the existing dwellinghouse, including brick, grey tiles and grey UPVC.

I note that initially, the proposed rear extension had a depth of 4.00 metres and a ridge height of 3.60 metres. However, both the depth and height have been reduced with the aim of addressing neighbour concerns.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan (Adopted 2020)

GPDO (2015) Schedule 2 Part 1 Class A

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

N/A

CONSULTATIONS

Publicity

Site Notice expiry date: 16/01/2024

Neighbour consultation period ends: 26/12/2023

Press Advert: N/A

Public Comments

Neighbours have been notified in accordance with the procedure outlined within the GPDO. One neighbour comment has been received, demonstrating concern regarding the following:

- The extension could cause reduced light into their property and outside space.
- The extension would not be in keeping with the original scale of the property and outside space.
- As the extension would be built up to the boundary, rainwater runoff from the gable sided roof could cause issues.

Town / Parish Comments

N/A

OFFICER COMMENTS

In conformity with the rules stated within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), it is necessary to assess whether the proposed rear extension to the dwellinghouse adheres to the criteria stated by Schedule 2, Part 1, Class A of the GPDO, to determine whether the householder development is permitted.

Schedule 2, Part 1, Class A.1 (a) states that development is not permitted if the use of a dwellinghouse as a dwellinghouse changes. The rear extension will be solely used as part of the living space of the residents to fully maintain its status as a dwelling, thus making it compliant under this criterion.

In accordance with Class A.1 (b) of the GPDO, the ground coverage of the building combined with the addition of the rear extension would not exceed 50% of the total curtilage of the dwellinghouse.

Class A.1 (c) and (d) confirm that the height of the roof and eaves of the proposed extension cannot exceed beyond the maximum roof height and eaves height of the existing dwellinghouse; otherwise the development is not permitted. Neither the height of the roof or the eaves of the single storey extension would exceed the maximum roof or eaves heights of the existing dwellinghouse.

As the extension would not be constructed on the principal elevation of the dwelling, nor would it front the highway and form a side elevation of the existing dwellinghouse, this would be in compliance with Class A.1 (e.i) and (e.ii).

This is an application under the larger extension procedure of the GPDO, therefore Class A.1 (f) does not apply. Under Class A.1 (g), the dimensions of the proposed development are within those permissible. With a maximum height of 3.22 metres and a depth of 3.40 metres measured externally, the extension would be under the 4 metre height limit and fit within the 6 metre projection limit on semi-detached dwellinghouses.

The enlarged part of the dwellinghouse does not have more than a single storey and therefore, Class A.1 (h) does not stand applicable to the proposed development.

With respect to Class A.1 (i), if the proposed extension would be positioned 2 metres from the curtilage boundary of the dwelling, the eaves height cannot exceed 3 metres. Thus, as the eaves height of the proposed extension would be 2.38 metres, the development would conform to this restriction.

Class A.1 (j) states that the enlarged part of the dwellinghouse cannot extend beyond a wall forming a side elevation of the original dwellinghouse, unless it abides by certain criteria. The proposed extension would only extend beyond the original rear elevation of the dwelling, therefore this rule is not applicable.

With regard to Class A.1 (ja), any total enlargement including the addition of further enlargements to existing enlargements, cannot exceed the limits set out in Class A.1 (e-j). The total measurement of the proposed extension would not exceed 6 metres in depth, 4 metres in height and 3 metres to the eaves. Thus, there would not be a breach of Class A.1 (ja).

The proposed extension would not include the addition of any new ornamentation features such as a verandah, microwave antenna, a chimney or flue or the alteration to the existing roof of the dwelling. Therefore, Class A.1 (k) is not applicable.

The proposed site does not fall within article 2(3) land, therefore Class A.2 does not

apply.

The proposed development would be constructed from materials which would harmonise with the existing colours, textures and materials of the dwellinghouse. In accordance with Class A.3 (a), all proposed materials are set to be of a similar appearance to those used in the construction of the existing dwelling, including brick, grey tiles and grey UPVC.

Permitted development rights in relation to the proposed site remain intact.

One representation has been received from a neighbour, demonstrating concern regarding the design and scale of the proposed extension, impact on their light amenity and rainwater runoff from the guttering.

As noted above, in response the applicant has reduced the length of the extension to 3.4m.

Following completion of a site visit and assessment of the site plan submitted, it is evident that despite the reduction in length there would be a breach of the 45 degree rule from the corner of the proposed extension closest to the neighbours' closest rear fenestration. The East to West sunlight trajectory would mean that the proposed rear extension would cause overshadowing over the rear fenestration and garden amenity space of No. 14 Ivy House Road during the morning hours.

However, as the agent has pointed out, the applicants could rely on a PD fallback position if they were to change the depth of the proposed extension to 3m. At this length the extension could be constructed under PD without the need for prior approval. Furthermore, it could have a ridge height of 4 metres and an eaves height of 3 metres, meaning that the height of the extension could be increased. Regardless of whether the extension would have a depth of 3 metres or 3.4 metres, it would impact the light amenity of No. 14 as both options would breach the 45 degree rule.

The PD fallback position of an application can be assessed under the following case law:

"In the case of *Gambone v SSCLG and Wolverhampton City Council* [2014] EWHC 952, the Court considered the relevant authorities that deal with the fall back position. The Court concluded that consideration of the fallback position involves a two stage approach (paragraph 25 – 26):

(i) Is the way in which the land may be developed a matter that amounts to a material consideration? It will be a material consideration where there is a greater than theoretical possibility that development might take place, for example, where there is a planning permission in place.

(ii) Once the question of whether the fall back is a material consideration has been concluded, the question that then arises for the decision maker is what weight that should be attached to the fall back. The weight that might be attached to it will vary from case to case and will be fact sensitive. Issues that the decision maker will wish

to bear in mind include the scale of harm that would arise if the fall back were implemented. The likelihood of the fall back occurring is also relevant to the weight to be attributed to the fallback position.”

The Gambone v SSCLG case demonstrates how for a fallback to be genuine, there needs to be a genuine alternative to what the applicants are looking to achieve from the application. The PD proposal would achieve the outcome which the applicant is looking to achieve from the proposed extension, thus there is a strong theoretical possibility that the development would take place if they were required to rely on PD fallback. It would be likely that the fallback would occur as it would deliver what the applicants wish for, thus the weight attributed to the fallback would be substantial.

In view of this it is not considered that a refusal on amenity grounds would be sustainable.

The proposed single storey rear extension would not impact the light amenity of the neighbours at No. 9 Long Valley Road. The approximately 7 metre distance from the rear wall of the extension to the common boundary between the site and this neighbour would help to mitigate loss of light through any habitable windows belonging to the neighbour. Additionally, the common boundary treatment in place between the site and this neighbour would block any overshadowing impact which the proposed extension could have.

There would be no windows on the side elevation of the proposed extension which would face towards the neighbours at No. 14. Therefore, their privacy amenity would not be impacted at all. Although a large area of fenestration would be on the rear elevation of the extension which would face onto the neighbour at No. 9 Long Valley Road, the common boundary treatment between the two dwellings would mitigate any privacy impact from occurring. Furthermore, there are already a set of sliding patio doors on the rear elevation of the dwelling, therefore the proposed fenestration would not impact the neighbour more than the existing.

Concern about drainage / rainwater runoff would be a matter for Building Regulations and therefore is not a material planning consideration.

CONCLUSION / PLANNING BALANCE

This notification falls within the framework set out within Schedule 2, Part 1, Class A (g) of the Town and Country Planning (General Permitted Development) (England) Order 2015. Although a neighbour comment was received to express concern regarding the proposed extension impacting their light amenity, the applicant could build an extension under permitted development which would impact their light amenity. Thus, weight has been attributed to the PD fallback position in this instance. Furthermore, the applicant has reduced the ridge height and depth of the proposed extension to reduce amenity impact from the extension initially proposed. As a result the proposed extension can be approved.

OFFICER RECOMMENDATION: APPROVE

Case Officer: Hannah Varley
Recommendation Date: 16/01/2024

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council