Expiry Date – 14/9

Development Control – Delegated Officer Report

Application Number: AWDM/1194/17 Recommendation – Refuse

Site: **43 Berriedale Drive, Sompting**

Proposal: **Householder application for permitted development for prior approval for single storey extension to rear of property measuring 3.9m from rear wall of the original dwelling, maximum height 3.6m and height of eaves of the extension 3m**

Neighbours checked: n/a

Additional neighbour notifications: n/a

Date of Site Visit: n/a

Site and Surroundings

This application relates to a semi detached house on the west side of Berriedale Drive. As originally built there is a single storey rear addition.

The property is in single family occupation. It is not in a conservation area and is not a listed building.

Previous rear extension 1982 appears to have been built under permitted development only gaining building regulations approval.

Proposal

A determination is sought as to whether planning permission is required for a single storey rear extension.

Relevant Planning History

S/37/98 – Replacement garage with ridged roof (retrospective) – granted 14/07/1998

Consultations

None. However previous legal advice is considered to be relevant in this instance.

Senior Lawyer: '*…….. it is my view that the extension as proposed by the applicant would not amount to permitted development in accordance with the comments of Justice Dove.*

The demolition of the existing kitchen and extending that out further from the back of the property would create a situation in which the area in question is larger than that

permitted under PD. The total extension as currently drawn would take the extension ¾ of the size of the length of the back of the house rather than the 50% required.'

Representations

Parish Council - Supports the application.

RELEVANT LEGISLATION:

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 Schedule 2 Part 1 'Development within the curtilage of a dwellinghouse'

A. The enlargement, improvement or other alteration of a dwellinghouse. Development not permitted

A.1 Development is not permitted by Class A if—
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);
(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;
(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;
(e) the enlarged part of the dwellinghouse would extend beyond a wall which—
(i) forms the principal elevation of the original dwellinghouse; or
(ii) fronts a highway and forms a side elevation of the original dwellinghouse;
(f) 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;
(g) until 30th May 2019, 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;
(h) the enlarged part of the dwellinghouse would have more than a single storey and—
(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;
(i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
(i) exceed 4 metres in height,
(ii) have more than a single storey, or
(iii) have a width greater than half the width of the original dwellinghouse; or
(k) it would consist of or include—
(i) the construction or provision of a verandah, balcony or raised platform,
(ii) the installation, alteration or replacement of a microwave antenna,
(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
(iv) an alteration to any part of the roof of the dwellinghouse.
A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if—
(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Conditions
A.3 Development is permitted by Class A subject to the following conditions—
(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—
(i) obscure-glazed, and
(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
(c) where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

Planning Assessment

Assessment

It is proposed to in fill between an existing single storey rear addition and the neighbour to the south to build a single storey rear extension. The extension measures 3.9 metres in depth and is 3 metres high to eaves and 3.6 metres to ridge. It is positioned within 2 metres of the boundary with 41 Berriedale Drive. The drawings show the previous addition

The original rear addition has already been removed/altered. This includes a flank or side wall to this projection. This is shown on a building regulations application plan S/50/82/BR

Accordingly, The Council's solicitor advises that the proposal falls to be assessed under part J (iii) of Part 1 of Schedule 2 in line with the High Court judgment Arnold v Secretary of State for Communities and Local Government 2015 EWHC 1197 (Admin) where Mr Justice Dove states:

in order to benefit from the permitted development rights relied upon, the parent dwellinghouse development must be retained. … Reading the limitation as it is stated, it clearly applies to wall A and the fact that the wall has as part of the works been demolished does not affect the position in terms of the imposition of the limitation. Wall A is quite clearly, in my view, a wall forming a side elevation of the original dwelling-house.

Part J (iii) of Part 1 of Schedule 2 engaged, the extension as proposed is to be assessed against its full width.

The Council's solicitor advises:

The demolition of the existing kitchen and extending that out further from the back of the property would create a situation in which the area in question is larger than that permitted under PD. The total extension as currently drawn would take the extension ¾ of the size of the length of the back of the house rather than the 50% required.'

Consequently the proposed extension would extend more than half the width of the original house. The proposed extension does not comply with part J (iii) of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation

REFUSE for the following reason:

The ground floor extension as in drawing entitled Block Plan 1:500 received 3.08.17 does not meet the requirements of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008. In particular, the extension does not comply with the requirements of Part A J (ii) as it is more than half the width of the original house.

Is recommendation contrary to any representations? N

Case Officer signed:	ER	Date: 05/09/2017
Authorised and signed by:	Gary Peck	Date: 5 September 2017