



# Appeal Decision

Site visit made on 5 March 2024

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> April 2024

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**Appeal Ref: APP/L3245/W/23/3326063**

**41 Roseway, Shrewsbury, Shropshire, SY1 4HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
  - The appeal is made by Miss Desi Koleva against the decision of Shropshire Council.
  - The application Ref 23/02118/FUL was approved on 4 July 2023 and planning permission was granted subject to conditions.
  - The development permitted is a two storey side extension.
  - The condition in dispute is No 5 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 class A; AA; B; C; D; E shall be erected, constructed or carried out.
  - The reason given for the condition is: to maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.
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## Decision

1. The appeal is allowed and planning permission Ref 23/02118/FUL for the erection of a two storey side extension at 41 Roseway, Shrewsbury, Shropshire SY1 4HW granted by Shropshire Council, is varied by deleting Condition 5 and imposing the following condition:
  - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no development relating to Schedule 2, Part 1, Class D shall be carried out on doors serving the front elevation of the host dwelling.

## Background and Main Issue

2. Condition 5, as set out above, restricts a number of permitted development rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The appellant disputes the need for this condition and therefore, the main issue is: Whether Condition 5 is necessary to protect the character and appearance of the surrounding area and the living conditions of occupiers at the appeal site.

## Reasons

3. Roseway is characterised by short rows of largely uniform terraces set back from the road by gardens or parking areas. The appeal site contains an end of terrace two-storey dwelling that has been extended to the side under planning permission 23/02118/FUL. I understand that the dwelling originally had a single-storey garage to the side of the property and a small single-storey

extension to the rear. To the side of the appeal site is a public footpath from which views of the property and the approved extension are possible although, a tall boundary fence screens views of the ground floor along the footpath.

4. From the information before me, I understand that there were no restrictions on the permitted development rights set out in the GPDO through previous planning conditions or an Article 4. Prior to the granting of the above permission it appears, therefore, that Classes A, AA, B, C, D and E could have been carried out at the appeal site. Paragraph 54 of the National Planning Policy Framework (the Framework) states that clear justification is necessary to remove permitted development rights.
5. In this case, the justification given is, briefly, that by retaining the above permitted development rights (the rights) there is an unacceptable risk that the property could be extended to the detriment of the character and appearance of the surrounding area and the living conditions of the occupiers at the site through the loss of the garden space and the increase in the number of potential occupiers.

#### *Class A*

6. Class A could allow for the erection of single and two-storey extensions to the rear of the dwelling. Although it also covers side extensions, I do not consider that any opportunities for this remain. Any single storey extensions would be screened by the existing extension and the tall side boundary fence. I therefore do not find that they would affect the character or appearance of the area. Whilst two-storey extensions would more likely be visible, this would only be from the public footpath to the side of the site where the appreciation of uniformity is not present. It is not, therefore, necessary to restrict this class to protect the character and appearance of the surrounding area.
7. An extension under this Class would further reduce the rear external space which would affect its quality and contribution to the living conditions of the site's occupiers. However, the GPDO sets out that development under Class A cannot, when taken together with all other works beyond the footprint of the original dwelling, cover more than 50% of the dwelling's curtilage. I therefore find that the Framework has already considered the need to retain outside space to meet the typical needs of occupiers. As such, it is not necessary for additional controls to be attached for this purpose.

#### *Class AA*

8. Although additional floors could significantly alter the appearance of the host dwelling and the character and appearance of the surrounding area, this Class requires prior approval where such matters, along with the living conditions of neighbouring occupiers, are considered. The Council therefore already have control over this matter, and it is unnecessary to restrict this Class through a condition.

#### *Class B*

9. Although loft conversions may not be typical in the area, it has not been demonstrated that there are any controls to prevent them, through conditions or an Article 4, in this area. The approved extension may afford more roof space for a conversion that includes dormer windows, but Class B also restricts cumulative enlargements over 40 or 50 cubic metres. Given the roof has been

enlarged, I find that any potential extensions would necessarily be more limited as a result of this restriction. Consequently, I find that the appeal site is in a very similar situation as it was prior to the granting of the planning permission. It would not, therefore, be necessary to restrict Class B in order to protect character and appearance, and living conditions.

#### *Class C*

10. The provisions afforded by this class are more modest and, as with Class B above, it has not been demonstrated that there are any controls within the wider area. Given alterations to the surrounding rooves could be made, I do not find that any works under Class C would necessarily be unacceptable. Moreover, the approved extension has not so significantly altered the host property as to mean that works under Class C would be meaningfully different to those possible on neighbouring properties. I therefore find that it would not be necessary to restrict the provisions of this Class in order to protect character and appearance or living conditions.

#### *Class D*

11. This Class allows for the erection of a porch to serve any external doors. It is therefore possible that a porch could be erected to the front or rear of the dwelling. During my site visit I noted a number of porches to the front of properties in various styles and sizes. Any porches would, following the requirements of the GPDO, be very modest in scale, height and bulk. To the rear of the dwelling this would have no unacceptable impact on the character or appearance of the wider area. However, given that a porch has already been erected to the front of the dwelling, I find that a further extension under Class D would likely have an unacceptable impact on the character and appearance of the surrounding area.
12. Given the small scale of the porches afforded by Class D, if one were to be erected at the rear of the dwelling, it would not result in such a loss of garden space as to unacceptably affect the living conditions of the occupiers.
13. Nevertheless, given the potential impact of an additional porch to the front of the dwelling, I find it is necessary that a condition is imposed restricting this right with regards to the front elevation.

#### *Class E*

14. Outbuildings, such as sheds and garages, are typical features within rear gardens. The erection of a building permitted under Class E would therefore be unlikely to affect the character and appearance of the surrounding area. This is made more unlikely by the heights permitted under this Class which would mean any building would largely be screened by the side boundary fence and existing dwelling. As noted with Class A, this class requires 50% of the original dwelling's curtilage to be retained and so outside space would be retained for the use of occupiers.
15. Therefore, it is not necessary to restrict the provisions of this Class in order to protect the character and appearance of the surrounding area or living conditions of occupiers.

## **Other Matters**

16. My attention has been drawn to two Council decisions<sup>1</sup> relating to proposals for two-storey side extensions and I note the comparisons made. However, I have not been provided with the full details and facts of these applications and decisions. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers at the time. Therefore, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.

## **Conclusion**

17. As set out above, it is not necessary to restrict permitted development Classes A, AA, B, C and E in order to protect the character and appearance of the surrounding area or the living conditions of occupiers. However, it is necessary to restrict the provisions of Class D with regard to the front elevation in order to protect the character and appearance of the surrounding area.
18. Therefore, for the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting and replacing Condition 5.

*Samuel Watson*

INSPECTOR

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<sup>1</sup> Planning permission references: 16/02787/FUL and 09/03682/FUL