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# Appeal Decision

Site visit made on 20 March 2012

**by R O Evans BA(Hons) Solicitor MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 April 2012**

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**Appeal Ref: APP/Q1445/X/11/2161545**  
**19 Braybon Avenue, Brighton, BN1 8EA**

- 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 Mr Brian Redman against the decision of Brighton & Hove City Council.
  - The application Ref BH2011/01298, dated 06 May 2011, was refused by notice dated 04 July 2011.
  - 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 the erection of a single storey rear extension.
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## Decision

1. The appeal is dismissed.

## Reasons

2. The appeal property is a detached house with front and back gardens on the western side of Braybon Avenue. The rear elevation was originally in a staggered formation, with roughly the northern half of the building projecting about 2m further to the rear of the plot than the southern part. The application was made for a certificate of lawful development for the erection of a single storey, L shaped extension across the full width of the house, as shown in the application plans. The issue between the parties is whether, as at the date of the application, permission was granted for that development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) ("the GPDO"). I shall continue to deal with the appeal on that basis, though the Council have since granted a separate planning permission for the extension and it has indeed been erected.
3. Class A of Part 1, Schedule 2 to the GPDO grants permission for the enlargement, improvement or other alteration of a dwellinghouse, but subject to the exclusion provisions at paragraphs A1(a)-A1(i). The Council rely on paragraph A1(h), which provides that development is not permitted if the "enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would ... (iii) have a width greater than half the width of the original dwellinghouse".
4. Technical guidance on the application of the GPDO provisions is given in the note issued by the Department of Communities and Local Government in August 2010, entitled "Permitted development for householders" (ISBN: 978-1-

4098-2493-0). As there illustrated, any wall not a front or rear wall will constitute a wall forming a side elevation. This proposal involves a single extension and the whole of it, as a question of fact, would (and does) constitute the "enlarged part" of the house. It is not divisible in some way into different elements for this purpose, merely because part of it has different dimensions to another part or because one part projects further to the side or rear of the original walls than another part. Again as questions of fact, and on the ordinary meaning of the GPDO provisions, the "enlarged part" of the house would (and does) extend beyond a wall forming a side elevation of the original dwellinghouse and it would (and does) have a width greater than half that of the original dwellinghouse. The Appellants' own description of it indeed is of "full width".

5. The facts in this case mean the proposal is clearly caught by paragraph A1(h) so that there is no need to make lengthy comparisons with the facts in other cases. I make no comment on the issue of certificates in other allegedly similar cases, save to say that it is not inconceivable that some were wrongly issued, especially in the period between the amendment of the GPDO provisions in 2008 and the publication of the additional guidance in 2010. Similarly, it is not for me to comment on the handling of the Appellant's application(s) by the Council, as my role is limited to the determination of this appeal. For the above reasons however, the Council's refusal was justified.

*RO Evans*

Inspector