
Appeal Decisions

Site visit made on 20 September 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 4th October 2016

Appeal A: ref. APP/B0230/W/16/3150561

58 Carlton Crescent, Luton LU3 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A paragraph A.1 (j) (iii) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs Shenila Abbas against the decision of Luton Council.
 - The application Ref 16/00319/RES, dated 19 February 2016, was refused by notice dated 25 February 2016.
 - The development proposed is a single storey rear extension.
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Appeal B: ref. APP/B0230/W/16/3150565

60 Carlton Crescent, Luton LU3 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A paragraph A.1 (j) (iii) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs Shenila Abbas against the decision of Luton Council.
 - The application Ref 16/00552/RES, dated 14 March 2016, was refused by notice dated 31 March 2016.
 - The development proposed is a single storey rear extension.
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Decisions

Appeal A: ref. APP/B0230/W/16/3150561

1. The appeal is dismissed.

Appeal A: ref. APP/B0230/W/16/3150565

2. The appeal is dismissed.

Procedural Matters

3. These appeals relate to adjoining properties with proposed rear extensions with the same design dimensions. They both relate to the refusal to grant approval required under Schedule 2, Part 1, Class A paragraph A.1 (j) (iii) of the Town and Country Planning (General Permitted Development) (England) Order 2015. Consequently, I have dealt with them both in this one decision letter.
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Main Issue

4. The main issue is whether the proposals would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

5. The appeal properties are a pair of semi-detached dwelling located on a street with houses of similar design and construction age. The rear walls of the properties were originally constructed with a small single storey projection. The projection at No 58 has been incorporated into a rear single storey extension. The projection at No 60 remains and is used for domestic storage. At my site visit, the occupier of No 60 indicated that these projections were likely originally used for coal storage.
6. The original projections are part of the wall forming the side elevation of the properties. The proposed extensions would span the full width of the ground floor of both properties and extend 6m from the main rear façade. As such they would extend beyond a side wall which formed part of the original dwelling.
7. Schedule 2, Part 1, Class A of the GPDO allows, with limitations, for the enlargement of a dwelling house if all the specified conditions are met. Class A.1 (j) (iii) of the same Schedule limits the width of the enlarged part of the dwelling house to half the width of the original dwelling house where it would extend beyond a wall forming a side elevation. In this case the proposed extensions would extend the full width of the properties.
8. Whether or not a structure at a property counts as part of the original dwellinghouse for the purposes of the GPDO depends on the particular circumstances. In this case, the projections are physically joined to and constructed with the original dwelling houses. They were tall enough to enter and used for domestic storage. Although the structures were only accessed externally to the main dwelling, there is no evidence that any part of the original building was used other than as part of a dwelling house as defined by Class C3 of the Town and Country Planning (Use Classes) Order 1987.
9. I agree with the appellant that the proposed extensions would unlikely have any adverse effect on the occupants of the adjacent properties and I have some sympathy with the desire to extend these properties. However, the provisions of this part of the GPDO relate to a side elevation of the original dwelling house. "Original" in relation to a building is defined in the GPDO as that which existed on 1 July 1948 or, if built after that date, as so built. Even though the rear projection at No 58 has been incorporated into the rear extension it is treated as being part of the original dwellinghouse for the purposes of the requirement of Class A.1 (j) (iii). Accordingly the proposed extensions would be considered as being beyond the side wall of the original dwellinghouses.
10. For the above reasons the rear projections count in establishing whether the proposal is permitted development under the GPDO. The requirement in relation to the original side wall of the dwellinghouse applies and consequently the proposed extensions would not meet the requirement.

Conclusions

11. For the reasons set out above I conclude that the proposals are not permitted development under Schedule 2, Part 1, Class A of the GPDO. As the proposals are not permitted development the prior approval notification process does not apply. For the above reasons, and taking into account all other matters raised, I conclude that the appeals should be dismissed.

Stephen Normington

INSPECTOR