

Appeal Decision

Site visit made on 5 December 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 12th December 2016

Appeal Ref: APP/Z4718/D/16/3156318
44 Syringa Street, Huddersfield, HD1 4PD

- 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, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Imran Khalid against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/91872, dated 7 June 2016, was refused by notice dated 14 July 2016.
 - The development proposed is a single storey pitched roof extension to rear projecting 4.750 beyond main house wall and 3.250 beyond projecting wall. Existing conservatory to be demolished.
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Decision

1. The appeal is dismissed.

Main Issue

2. The application is made for prior approval for a single storey rear extension. The Council consider that the proposal falls outside the scope of development permitted by Class A. The main issue is therefore whether the proposal is permitted development by virtue of satisfying the conditions, limitations and restrictions set out in Schedule 2, Part 1, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Reasons

3. The appeal property is a semi-detached dwelling with a relatively large rear garden. In common with other similar properties in the street it has a small outrigger at the rear which is constructed in the same brick as the side elevation. Historic maps provided by the Council confirm that this element of the building forms part of the original dwellinghouse.
 4. The permitted development regulations state that where a proposal for an extension projects forward of the side elevation of the original property, permitted development rights will not apply if the proposal has a width greater than half the width of the original dwelling house. The *Permitted Development for Householders Technical Guidance* (2016) defines a side elevation as "A wall forming a side elevation of a house will be any wall that cannot be identified as a front wall or a rear wall". Therefore notwithstanding the limited extent of the
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side wall which makes up the rear outrigger, it constitutes a side wall for the purposes of the regulations.

5. The proposal would span the width of the property. It therefore follows that it would have a width greater than half the width of the original dwelling house. As a result I must conclude that the proposal fails to meet the conditions laid out in Paragraph A1 (j) of Schedule 2, Part 1, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Accordingly, they would not be permitted development under Class A.
6. I take into account the appellant's need for additional accommodation for his family and I have some sympathy for him in this regard. I also take into account that the aim of the legislation is to provide householders with the opportunity of extending their properties without needing to apply for formal planning permission. However, in this case, as it is clear from the technical guidance that the proposal would fail to comply with limitations set out in the legislation, I do not consider that I have any discretion to conclude otherwise. I am also mindful that although the proposal does not meet the requirements of permitted development, this does not alter the Council's ambit to determine a planning application for the same proposal on its own merits.
7. Therefore, for the reasons given above, I conclude the appeal should be dismissed.

Anne Jordan

INSPECTOR