
Appeal Decision

Site visit made on 2 July 2019 by Ifeanyi Chukwujekwu BSc MSC PIEMA RTPI (Assoc)

Decision by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 15 July 2019

Appeal Ref: APP/W5780/D/19/3227543

18 Broadwalk, London, E18 2DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Kirpal Ghattarody against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 5316/18, dated 24 December 2018, was refused by notice dated 4 February 2019.
 - The development proposed is single storey rear extension with a depth of 6.0 metres, highest point of 4.0 metres and height at the eaves of 3.0 metres.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appellant refers to an application for the same proposal with revised plans (ref 0719/19), which has been approved by the Council, but that scheme is not before me.

Main Issue

4. There is only one reason for refusing the prior approval and this states that the proposed development would not be permitted development (PD). The main issue is whether or not the proposed extension would comply with Article 3, Schedule 2, Part 1, Class A to the Town and Country Planning (General Permitted Development) Order as amended (the 'GPDO')¹.

Reasons for the Recommendation

5. No.18 comprises a two-storey semi-detached building located in the middle of Broadwalk. The proposed single storey extension at the rear would sit on uneven ground, sloping slightly downwards towards the rear of the property.

¹ The GPDO 2015 version has been amended by statutory instrument 019 no. 907 The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019, which came into force on 25 May 2019. There has been no material change to Schedule 2, Part 1, Class A.

6. The Council argue that the development would not comply with Class A paragraph A1 sub-section (i) to the GPDO, which states development is not permitted if 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 3m. The Council contend that the eaves height of the proposed extension measured from its ground level would be greater than 3m. The appellant argues that the measurement of eaves height should be taken from the highest ground level adjacent to the original building: I disagree for the following reasons.
7. For the purposes of the GPDO, "ground level" means the level of the surface of the ground immediately adjacent to the building or where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it. And "building" is defined as any structure or erection and includes any part of a building. In this case, the building in question is the proposed extension and not the host property. Paragraph A1(i) also refers to the height of the eaves of the enlarged part, which is the proposed extension. Given the precise and clear terminology, there is nothing to suggest that the eaves height should be taken from the highest ground level adjacent to the original building.
8. My application of the GPDO to the facts of this case is consistent with advice found in the technical guide for householders. This also confirms that, when measuring the eaves height, it will be measured from the ground level at the base of the external wall of the extension to the point where the external wall would meet (if projected upwards) the upper surface of the roof slope. There is nothing therein to support the appellant's approach.
9. The appellant argues there is a similar neighbouring development but this is not determinative as this appeal relates to the proposed development subject to prior approval at this site.
10. I find that the proposed development would not fall within the scope of Class A to the GPDO. As it would not be PD, there is no need to consider if prior approval should be granted.

Conclusion and Recommendation

11. For the reasons given above and having had regard to all other matters, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I too concur that the appeal should be dismissed.

A U Ghafoor

INSPECTOR