



Appeal Decision

Site visit made on 15 September 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

Appeal Ref: APP/W5780/D/20/3246708

13 Fowey Avenue, Ilford, Essex IG4 5JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
- The appeal is made by Dr Barzan Izzat against the decision of the Council of the London Borough of Redbridge.
- The application Ref 4302/19, dated 8 November 2019, was refused by notice dated 23 December 2019.
- The development proposed is described as 'single storey rear extension 3.992m deep. Maximum roof height is 4m and eaves height not exceeding 3.0m. Material spec as follows: Pebble dash render to match existing; Upvc double glazed windows and doors; Flat roof finished in GRP grey.'

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are firstly, whether the proposal would amount to permitted development, and if so, the effect of the development on the amenity of any adjoining premises, with particular reference to outlook and overshadowing.

Reasons

3. Schedule 2, Part 1, Class A of the GPDO states that the enlargement, improvement or other alteration to a dwellinghouse is permitted development, subject to limitations of Paragraph A.1. Part (j) states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (i) exceed 4 metres in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse.
4. The Council's decision notice refers to the enlarged part of the dwelling extending beyond the *rear* original wall and forming an extension with a width greater than half the width of the original dwellinghouse. However, its delegated report states that the 'proposed extension would be attached to its non-original rear extension which extends beyond its original *width*.' I take this to mean a breach of the Paragraph A.1.(j) limitation above.
5. The proposal would see an extension of some 1.2 metres added to an existing single storey rear extension, creating a rear addition of 3.992 metres in total depth. The appellant does not dispute the Council's claim that the existing rear extension is not original to the dwellinghouse. The Council further points to this

extension extending beyond the original width of the dwelling. This is not directly addressed by the appellant, but I saw on site that the dwelling appeared to benefit from a two storey side extension which the other dwelling in the semi-detached pair did not have, nor did other dwellings along what is a street of generally homogeneous design.

6. For the purposes of assessing whether the proposal would amount to permitted development, the whole of the enlarged rear extension is taken into account. Whilst the existing rear extension does not span the full width of the *existing* dwelling, it is wider than the *original* width of the dwellinghouse as it extends across in front of the side extension. Therefore, the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse, in conflict with Paragraph A.1.(j).
7. Consequently, and notwithstanding that the proposal may comply with the other limitations of Paragraph A.1., the conflict with part (j) means the proposal would not satisfy the requirements of Schedule 2, Part 1, Class A of the GPDO, and therefore is not development permitted by it.
8. Given my findings that the proposed extension would not be development permitted under Class A of the GPDO, there is no need for me to consider whether or not prior approval would be required or should be granted as it would not alter the outcome of the appeal.

Other Matters

9. The appellant refers to a number of perceived precedents for the proposal. However, the previous proposal at the appeal site was a planning application, and not subject to the same assessment as an application for prior approval. The plans provided for the proposal at 39 Fowey Avenue show that the extension would not have extended wider than the original side wall. 38 Mighell Avenue is a terraced property spanning the width of the site, and has no scope to conflict with the GPDO in the same manner as the appeal scheme. These examples are not comparable, therefore, and they do not alter my conclusions.
10. The appellant refers to planning law requiring applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. However, a prior approval appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied as the principle of development is established through the GPDO. Development plan policies and the National Planning Policy Framework can be material considerations in prior approval cases, but only insofar as they relate to the prior approval issues. As set out above, it has not been necessary for me to consider the prior approval matters or the relevance of any development plan policies or guidance of the Framework.

Conclusion

11. For the reasons given, I conclude that the proposal is not permitted development under Schedule 2, Part 1, Class A of the GPDO. The appeal is therefore dismissed.

K Savage INSPECTOR