



Appeal Decision

Site visit made on 30 November 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/M4320/D/20/3258522

65 Moorside Road, Crosby L23 2RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Askin Zacharkiw against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/01262, dated 10 July 2020, was refused by notice dated 27 August 2020.
 - The development proposed is a prior approval submission for a proposed rear extension projecting 3 metres from the rear wall of the original dwellinghouse with a height of 3.5 metres at the eaves and a maximum height of 3.5 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.

Application for Costs

3. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Preliminary Matters

4. I have taken the description of development in the banner heading above from the Council's decision notice, which matches the measurements provided in the application form, as it provides a more accurate description of the proposal, as originally submitted and considered at the application stage.
5. The appellant has submitted amended details and a new drawing with the appeal. They state that they accidentally submitted the wrong measurements with the application. Generally, proposals cannot be amended through the appeal process. Where an appeal is made it is made against the decision of the Council and based on the plans submitted at the application stage. The proposed amendments have not been subject to any consultation.
6. To consider an appeal on the basis of the amended details without the ability to undertake a revised consultation exercise would be unfair and could prejudice

the position of those who may wish to comment on the proposals. Consequently, I recommend that the appeal is determined on the basis of the plans originally submitted to the Council. Any amended proposal would be a matter for the Council to consider.

7. The prior approval process only applies to development where the extension would be more than 3 metres from the original rear wall and/or more than 4m high. There is no need to apply for prior approval if that isn't the case. In those circumstances it would be for the appellant to satisfy themselves that the proposal would conform to the other requirements of the GPDO. The appellant should discuss this matter with the Council and/or seek a certificate of lawful development to confirm whether the amended details would constitute permitted development.

Main Issue

8. Whether the proposed development would constitute permitted development under Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons for the Recommendation

9. Schedule 2, Part 1, Class A of the GPDO sets out the parameters for works that can be undertaken to enlarge, improve or alter a dwellinghouse under permitted development (PD) rights, subject to a number of conditions and limitations. Schedule 2, Part 1, Class A, Paragraph A.1(g) of the GPDO permits larger extensions, which are also subject to a prior approval process. The starting point must be to consider whether the proposal qualifies as PD with reference to the conditions and limitations set out within the GPDO.
10. No. 65 is a two storey, semi-detached dwelling located within a residential area. The property currently benefits from a two-storey rear projection and has a modest garden. The development proposed is a single storey rear extension.
11. The main issue relates to the height of the extension. The application form states that the scheme would have a maximum height of 3.5 metres and 3.5m to the eaves. The appellant only submitted a location plan with the application which did not show the proposal.
12. GPDO paragraph A.1(g) allows a maximum height of 4m. The proposal also, however, needs to meet the limitations of para A.1(i). This states that the maximum eaves height allowed is 3m where any part of the extension would be within 2m of the boundary of the curtilage of the dwellinghouse. Based on the location plan and my site visit observations, it is likely that the development would be within 2 metres of the boundary of the curtilage of the dwellinghouse. Thus, based on the original information submitted, the eaves height of the extension would be above the 3m allowed and would not satisfy paragraph A.1(i).
13. In addition, the appellant submitted insufficient information to fully establish whether the proposed development complies with all of the conditions and limitations applicable to development permitted by Class A. For example, the location plan submitted to the Council does not show whether materials would match, whether the scheme would extend beyond the existing projection or

whether the extension would have a width greater than half the width of the original dwellinghouse.

14. In the case of a semi-detached dwelling, developments which extend more than 3m beyond the rear of the original house require prior approval. The application form states that the proposal would project 3m and therefore it appears that the extension would not require prior approval.
15. Accordingly, based on the details submitted to the Council, the development would not comply with the conditions and limitations of Schedule 2, Part 1, Class A of the GPDO and so would not qualify as PD.

Other Considerations

16. Given that I have found that the proposal would not constitute PD, further to paragraph A.4 of the GPDO, I am not required to consider the effect of the proposed development on the amenity of the adjoining occupiers.
17. I note the appellant's frustration with the Council and they were informed by a builder that they did not need planning permission. Nevertheless, the appeal must be solely decided using the legislation within the GPDO and therefore these matters are not relevant to the determination of the appeal.

Conclusion and Recommendation

18. For the reasons given above I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR