



Appeal Decision

Site visit made on 10 November 2020

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 31/12/2020

Appeal Ref: APP/L3625/D/20/3253757

Skylarks, New House Lane, Salfords RH1 5RA

- 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 Mr Bernie Kilcullen against the decision of Reigate & Banstead Borough Council.
 - The application Ref: 20/00743/PDE dated 02 March 2020, was refused by notice dated 13 May 2020.
 - The development proposed is single storey rear extension.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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) for single storey rear extension at Skylarks, New House Lane, Salfords RH1 5RA in accordance with the application Ref: 20/00743/PDE dated 02 March 2020 and the details submitted with it, including Plan Nos BP01; PO1; PO2; PO3 and PO4, pursuant to Article 3 (1) and Schedule 2, Part 1, Class A, Paragraph A.4.

Procedural matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received.
3. However, in the case of the appeal proposal before me, the Council has refused prior approval because it states that the proposal does not meet all the criteria as set out in Part 1, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It goes on to state that the proposal would not comply with paragraph (j) because it would extend beyond the original side elevation of the inset area (the area outside the living room French doors with the column supporting the first floor above) and its width would be 10.4m approx. which is greater than half the width of the original house (5.6m - half of 11.2m approx.).

4. Whilst a formal mechanism exists to establish whether a proposal is lawful under Section 192 of the Town and Country Planning Act 1990 (as amended), it would be inappropriate to consider under the prior approval procedure a scheme that is not permitted development. My starting point in this appeal is therefore to determine, based on the information before me, whether the proposal is permitted development under Class A, Part 1 of Schedule 2 of the GPDO.

Main Issues

5. I consider the main issues in this appeal to be:
 - a) Whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO, and
 - b) The impact of the proposed development on the amenity of adjoining premises.

Reasons

Issue a) Whether the development is permitted development

6. The appeal property is a chalet dwelling set on a large plot. It has an existing conservatory erected at the rear that would be replaced with the proposed extension. The extension would be staggered in depth measuring 8m in depth from the rear north west corner of the property, and 8m in depth from the south-west corner, measured to the wall in the covered inset alcove. The dimensions show that it would have a flat roof with a maximum height of 3m, although I agree with the Council that the proposed roof lights would increase the height where these are proposed, but the overall height would remain well within the maximum height permitted under Class A, Part 1 of Schedule 2 of the GPDO.
7. The issue raised by the Council relates to whether the rear wall of the property at the south west corner is formed by the inset elevation with the French doors, or the position of the first floor rear wall and roof above. It is the Council's view that the inset rear elevation at ground floor level forms the original rear wall and that the side elevation of the same inset area is therefore an original side elevation. On this basis the proposal would fall foul of Paragraph (j) of Class A, Part 1 of Schedule 2 of the GPDO in that it would extend beyond a wall forming a side elevation of the original dwelling house and the total extension would have a width greater than half of the width of the original dwelling house.
8. The Appellant has drawn my attention to an earlier prior approval granted by the Council under its ref: 16/02154/PDE for a single storey rear extension at the same property where it would appear that the Council took a contrary view on the same issue. However, I do not have all the information pertaining to that application before me, and I have considered the issue primarily on the basis of my observations at my site visit together with the other information made available to me by both the Council and the Appellant.
9. As a result of my site visit and all the information before me it is my view that the rear wall extends along the whole width of the rear elevation. This is based on a visual inspection and taking into account the structural construction of the elevation with its inset at ground floor level. It was designed and constructed

with the inset as an integral part of the property. From an inspection of the external elevations of the property, I consider that the outer side elevation forms the side elevation to the property turning to the rear elevation running along the whole of the back wall.

10. I agree with the Council that this matter is subjective and for the individual decision maker. Whilst I do not consider that the Council was unreasonable in the conclusion it reached, I have come to a different view for the reasons set out above and based on my site visit.
11. The regulations are clear that the development must accord with all other relevant limitations and conditions which apply to other rear extensions allowed under permitted development. I have considered the submitted information and am satisfied that the proposed extension would comply with each of the other limitations and conditions of Schedule 2, Part 1, Class A of the GPDO.

Issue b) Amenity

12. Having reached my conclusion under my first issue, it is necessary for me to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. The Council consulted surrounding neighbours of the proposal and I am advised that no representations were received. Nonetheless, Schedule 2, Part 1, Class A, Part A.4(9) of the GPDO indicates that in considering impact on amenity, the amenity of all adjoining premises and not just those of which are the subject of any representations should be considered.
13. From all the information before me as well as my site visit, I am satisfied that given the siting of the proposed extension, taken together with the generous size of the plot and the distance to its boundaries, as well as the distance to the nearest surrounding properties, there would be no material harm to the amenity of any adjoining neighbours and premises as a result of the proposed extension.

Conclusion

14. I conclude that the appeal should be allowed and prior approval should be granted. In granting approval, the Appellant should note that the GPDO requires at Paragraphs A4 (14) and (15) that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer, the address or location of the development, and the date of completion.

L J Evans

INSPECTOR