The Planning Inspectorate

Appeal Decision

Site visit made on 29 January 2021

by Rebecca McAndrew BA Hons, PG Dip Urban Design, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2021

Appeal Ref: APP/A5270/D/20/3260199
49 Court Way, Acton W3 0PY

- 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 Ms Mahya Fatemi against the decision of Ealing Council.
- The application Ref 202300PALHE, dated 8 June 2020, was refused by notice dated 15 July 2020.
- The development proposed is described as the demolition of an existing rear projection and erection of a single storey rear extension.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's statement refers to 'A.5(a) of Development Class A' in relation to the definition of eaves. It is unclear where this reference comes from as Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) does not include a Class A.5. The statement also refers to an Oxford dictionary definition. In the interest of clarity, in considering this appeal I have used the definition included in the September 2019 Government publication, *Permitted Development Rights for Householders: Technical Guidance* (Technical guidance).

Main Issue

3. The main issue in this appeal is whether the proposal would comply with Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GDPO).

Reasons

4. The appeal property is a semi-detached dwelling with an original single storey outrigger located to the rear. The appeal proposal would extend beyond the side wall of the outrigger and would therefore extend beyond a wall forming a side elevation of the original dwelling. Whilst I note that the outrigger would be demolished as part of the proposal, this does not alter the consideration of the outrigger as part of the original dwelling in respect of the GDPO. The proposal would have a greater width than the half the width of the rear of the

building. Consequently, the proposal would fail to comply with Schedule 2, Part 1, Class A.1 criterion (j) (iii) of the GDPO and therefore is not permitted development.

5. The GDPO states that, in order for a development to be considered to be permitted development, the height of the eaves of the proposed extension must not exceed 3 metres within 2 metres of a boundary (Schedule 2, Part 1, Class A.1 (i)). The Technical Guidance states that the eaves of a house are the point where the lowest point of a roof slope, or a flat roof, meets the outside wall. Whilst the proposed roof would include both flat and pitch roof elements, it must be assessed as one roof. As such, the eaves of the roof would fall below 3 metres above ground level within 2 metres of the boundary. However, whilst the appeal proposal would meet the requirements of this part of the GDPO, given that it fails to meet criterion Class A.1 (j) (iii), overall the scheme is not permitted development.

6. The Council's third reason for refusal states 'alterations to flue, soil or vent pipes do not fall within the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015'. The Council identify that the proposal would involve the partial removal of a pipe at the ground floor rear elevation, although it is not clear from the plans or the appellant's submission how this soil pipe would be dealt with. Class G of the GDPO allows for the alteration of a soil pipe on a dwelling. Therefore, if the proposal does involve the alteration of the pipe, these works would be permitted development. Consequently, I have attached limited weight to this matter in the consideration of this appeal.

Other Matters

7. The appellant's statement refers to previous appeal decisions and also to a number of other applications relating to properties in the vicinity. However, given that no detailed information has been submitted in respect of any of these cases, so I do not know the circumstances associated with those cases. Therefore, I have attached limited weight to them in considering this appeal.

8. I acknowledge that there are a number of existing single storey rear extensions to other dwellings in the vicinity. However, given that I have found that the appeal scheme is not permitted development, and in the absence of any objections from neighbouring properties, this is not a consideration of this appeal.

Conclusion

9. I conclude that the proposal would not comply with Schedule 2, Part 1, Class A of the GDPO and therefore would not constitute permitted development. Consequently, for the reasons set out above and having regard to all other material planning considerations, I conclude the appeal should be dismissed.

Rebecca McAndrew

INSPECTOR