
Appeal Decision

Site visit made on 4 May 2021

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2021.

Appeal Ref: APP/Z5630/D/20/3264588
87 Bodley Road, New Malden KT3 5QJ

- 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 Mahmood Rafiq against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref. 20/02608/PAEXT, dated 17 October 2020 was refused by notice dated 29 November 2020.
 - The development proposed is for the erection of a single storey rear extension.
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Decision

1. The appeal is allowed and prior approval is deemed to be 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 a single storey rear extension at 87 Bodley Road, New Malden KT3 5QJ, in accordance with the application ref. 20/02608/PAEXT made on 17 October 2020, and the details submitted with it, including plan nos Site location plan 1:1250@A4, XEVA/87BR/101 Issue A, XEVA/87BR/102 Issue A, XEVA/87BR/103 Issue A, XEVA/87BR/104 Issue A and XEVA/87BR/105 Issue A, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2), subject to the following condition:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 1:1250@A4, XEVA/87BR/101 Issue A, XEVA/87BR/102 Issue A, XEVA/87BR/103 Issue A, XEVA/87BR/104 Issue A and XEVA/87BR/105 Issue A.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f), but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided

insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.

4. Paragraph A.4(4) states that sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act, such a refusal is to be treated as a refusal of an application for approval. Notwithstanding this, the local planning authority notified each adjoining owner or occupier about the proposed development and no representations were received in respect of this.

Main Issue

5. I therefore consider that the main issue in this appeal is whether the proposed development would be granted planning permission by Article 3 (1), Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The appeal site comprises a semi-detached house with 2no single storey projections to each side of its rear elevation which enclose a light well where the current kitchen window and back door are located. Therefore as it stands the inward facing elevations of these projections could be construed to be side elevations for the purposes of assessing the proposal against the GPDO.
7. However as is clear from the plans before me and specifically drawing XEVA/87BR/101 Issue A, these single storey accretions would be demolished before work would begin on the extension. Consequently the proposal would be built off the original main rear elevation (comprising the aforementioned kitchen window and back door, along with the first floor elevation over) of the host dwelling by 6m.
8. I therefore find that the proposed elevation would not extend beyond walls forming side elevations of the original dwelling house (for they would be previously demolished) and therefore paragraph A.1 (j) (iii) of the GPDO would not be conflicted.

Conclusion

9. For the reasons given above I conclude that the appeal should be allowed and prior approval is deemed to be granted. For the avoidance of doubt, and the sake of clarity, I have imposed a condition requiring the development to be carried out in accordance with the approved plans.

C J Tivey

INSPECTOR