



Appeal Decision

Site visit made on 19 April 2021
by C Rafferty LLB (Hons), Solicitor

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2021

Appeal Ref: APP/L5810/D/21/3268487 86 Milner Drive, Twickenham TW2 7PJ

- 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, Paragraph A.1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Kealan O'Driscoll against the decision of the Council of the London Borough of Richmond upon Thames
 - The application Ref 20/3465/PDE, dated 30 November 2020, was refused by notice dated 13 January 2021.
 - The development proposed is described as a full width single storey extension; 6 metres deep with flat roof. Brickwork walls to match existing.
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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.

Main Issue

3. The main issue is whether the proposal constitutes permitted development under the terms of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Reasons for the Recommendation

4. The appeal site comprises a mid-terraced dwelling in a residential area. It benefits from a two storey bay window on the rear elevation and long back garden. The appellant seeks to construct a single storey rear extension using permitted development (PD) rights through Prior Approval Class A, Schedule 2, Part 1 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
5. However, in its reasons for refusal the Council states that the proposal falls within the definition of 'Development not permitted' under Paragraph A.1(j)(iii) and cannot therefore be PD. This paragraph states that development will not be permitted by Class A if the enlarged part of the house would extend beyond a wall forming a side elevation of the original house, 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 house.

6. The proposal would remove and replace the ground floor portion of the two storey bay window at the property and span across the entire width of the dwelling. The first floor element of the bay window would remain. Thus, it is clear that the width of the extension would be greater than half the width of the original dwelling. The proposal would project onto land beyond the side of the current bay window and the crux of the matter is therefore whether the side elevation of the bay window constitutes a 'wall forming a side elevation of the original dwellinghouse'. If it does, the proposal would fall foul of the limitation at paragraph A.1(j)(iii) and would not be 'permitted development'.
7. I have reviewed the Ministry of Housing, Communities and Local Government Permitted Development Rights for Householders Technical Guidance dated September 2019. This states that for the purposes of Paragraph A.1(j) a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. The Guidance distinguishes between the facing wall of a bay window and the side facing elevations¹. In this sense the side of the two storey bay window would be classed as a wall forming the side elevation of the house. I recognise that the projection is limited but, when viewed on plan, the splayed element of the bay is clearly side facing, as opposed to the main part of the bay which is rear facing. On balance, having regard to the Technical Guidance and what I observed on site, I find that the side of the bay forms a wall forming a side elevation.
8. Although the lower portion of this would be removed, it would remain at first floor level. While a conservatory may have been previously present at the property, no information is given on the dimensions of this structure or whether it formed part of the 'original dwellinghouse'. Having regard to the design of the property, it would appear that the rear bay is clearly part of the original structure and, for the reasons given, the extension would project to the side of the original side wall.
9. The proposal would extend beyond a wall forming the side elevation. While it would not exceed 4 metres in height and would be single storey, it would have a width greater than half of the original house. Accordingly, it would not comply with requirements of A.1(j)(iii) to Class A of Part 1 (of Schedule 2) of the GPDO and, cannot be PD.

Other matters

10. The appellant states that the proposal would not have a negative impact in terms of garden space, light or light pollution, nor would it cause harm to neighbouring amenities due to the minimal projection beyond neighbouring built form and the fact that the flat roof will not be used for amenity. However, in view of my conclusion above the proposal would not constitute permitted development and it is not possible to grant prior approval for a proposal that would fall outside the limitations of the GPDO. Planning permission is required for the proposal and such matters could be considered by the Council if an application for permission was to be made. Consequently, it is not necessary for me to consider those arguments in the context of this appeal.

¹ Text and diagram at page 15 of the Technical Guidance

11. The appellant has referred to other prior approval applications relating to rear extensions in the surrounding area. However, limited information is given on the proposals and host dwellings, or their comparability to the appeal property. In any event, the appeal must be decided on its site specific circumstances and reference to other development nearby carries limited weight.
12. The appellant previously obtained full planning permission for a similar proposal. However, an application for prior approval is fundamentally different to an application for planning permission. It is not open to me to grant prior approval for a scheme that falls outside the conditions and limitations of the GPDO. Consequently, the fact that a previous planning permission was granted is not determinative in this appeal. Similarly, while the appellant is willing to accept conditions on the size of the proposal, I must judge the appeal on the plans before me. Given that the proposal would need to be substantially smaller in width to qualify as PD in accordance with paragraph A.1(j)(iii), any condition restricting the dimensions would substantially alter the nature of the proposal.

Conclusion and Recommendation

13. Having had regard to all matters raised, I recommend that the appeal is dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree with the recommendation and shall dismiss the appeal.

C Preston

INSPECTOR