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# Appeal Decision

Site visit made on 20 July 2021

**by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> August 2021**

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**Appeal Ref: APP/V1505/W/20/3265394**

**5 Wick Lane, Wickford SS12 8AS**

- 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 & Mrs Ellis against the decision of Basildon District Council.
  - The application Ref 20/01261/PDPA, dated 6 October 2020, was refused by notice dated 29 October 2020.
  - The development proposed is single storey flat roofed rear extension with roof light and windows and door to rear elevation.
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## Decision

1. The appeal is dismissed.

## Procedural 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.

## Main Issue

4. The main issue is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.

## Reasons

5. The appeal site comprises a semi detached bungalow with accommodation within the roof. It has a rear single storey projection comprising a bathroom and kitchen. The proposed extension would be to the rear of the bungalow and would infill the space between the projection and the common boundary,

- marked by a fence, with the neighbouring semi detached dwelling. It has not been disputed that the width of the proposed extension would be approximately 5.2m and that of the dwelling is approximately 8.7m.
6. GPDO Schedule 2, Part 1, Class A, Paragraph A.1(j)(iii) requires that where the enlarged part of a dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, the maximum extension width limit to be considered under the prior approval process is half the width of the original dwellinghouse.
  7. The Department for Communities and Local Government Permitted development rights for householders Technical Guidance (TG) (2019) defines a side elevation wall of a dwelling as any wall that cannot be identified as being a front wall or a rear wall<sup>1</sup>. As would be expected, the rear projection has side walls and the extension would be sited beyond one of those, in the direction of the common boundary with the neighbouring dwelling.
  8. On page 23 of the TG, a picture shows an example of infilling a space between rear and side walls of a dwelling having regard to acceptability as a prior approval under paragraph A.1(j)(iii). In this regard, it shows a permitted extension in a different position to that considered here; a location not in the direction of a common boundary. In the proposed position, the extension would also not be visible from the front or side of the property. Nevertheless, it is not possible to illustrate every extension scenario and furthermore, if paragraph A.1(j)(iii) was intended to not cover the situation here, a scenario that is likely, explicit wording within the GPDO would be reasonably expected.
  9. Furthermore, the TG states that where an extension is beyond any side wall, the restrictions in (j) will apply. Specifically, the TG<sup>2</sup> states where an extension fills the area between a side elevation and a rear wall, then the restrictions on extensions beyond side walls, as well as rear wall, will both apply. For all these reasons, paragraph A.1(j)(iii) would apply to the appeal proposal and in this regard, the width of the proposed extension would be greater than half of that of the original dwelling.
  10. The TG is an aid to the interpretation and application of the GPDO, but it does cover prior approval issues in a rational and logical manner, and significant weight is given to it. The Council are purported to have confirmed that demolition of the rear projection and an extension would have come with the scope of the prior approval process and that the granting of the approval would have been likely. However, my consideration is limited to the proposal before me having regard to the wording of the respective paragraph under Class A of the GPDO.
  11. For all these reasons, the proposed extension would have a width greater than half the width of the original dwellinghouse which would exceed the width limit under GPDO Schedule 2, Part 1, Class A, Paragraph A.1(j)(iii). Therefore, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 1, Paragraph A.1 of the GPDO. Consequently, it is proposed development for which a planning application would be required. Such an application for planning permission would be a matter for the local planning

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<sup>1</sup> Page 22 below titled and detailed section (j)(i)(ii)(iii) denotated in bold.

<sup>2</sup> Page 23 below section titled Rear and Side Elevations denotated in bold.

authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO.

**Conclusion**

12. For the reasons given above, I conclude that the appeal should be dismissed.

*Jonathon Parsons*

INSPECTOR