



Appeal Decision

Site Visit made on 7 September 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/B4215/W/21/3277378

84 Martindale Crescent, Manchester, M12 4WQ

- 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 Kamal Ahmed against the decision of Manchester City Council.
 - The application Ref 130315/PDE/2021, dated 4 May 2021, was refused by notice dated 9 June 2021.
 - The development proposed is the erection of a single storey rear extension.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Manchester City Council against Mr Kamal Ahmed. This application is the subject of a separate Decision.

Main Issue

3. Whether or not the proposed extension is permitted under the above Order.

Reasons

4. Development is not permitted by Schedule 2, Part 1, Class A.1.(j)(iii) of the above Order if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse.
5. The appeal dwelling has a single storey projection which is common to other dwellings of the same design in the area. There is no dispute between the parties that this projection is an original part of the dwellinghouse.
6. There is no definition in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) as to what constitutes a side elevation. However, the Permitted development rights for householders Technical Guidance 2019 (Technical Guidance) sets out an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances.
7. With respect to Class A.1.(j)(iii), the Technical Guidance states that 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. Houses will often have more than two side

elevation walls. A pictorial example is provided which is broadly similar to the scenario that arises in this appeal.

8. The appellant's case is advanced on the basis that the Council has misinterpreted paragraph A.1.(j)(iii) and that it should not apply to the appeal proposal. Further commentary is provided on the practical consequences that this section of the GDPO has on the implementation of permitted development rights at different types of dwellings, the conflict with other parts of the GDPO and on what the intention may have been when the legislation was drafted. It is also confirmed that the existing single storey projection would be demolished to allow for the proposed extension and would not be incorporated within it.
9. Whilst I note the points that the appellant makes in these respects, I concur with the Council's interpretation of the GDPO and specifically paragraph A.1.(j)(iii). On application of the definition of 'original' given in the GDPO, the single storey rear projection is clearly a part of the original dwellinghouse. With reference to the Technical Guidance, the side elevation of the single storey rear projection is a wall forming a side elevation of the original dwellinghouse.
10. Furthermore, neither the GDPO nor the Technical Guidance support the assertion that paragraph A.1.(j)(iii) is intended only to relate to the main side elevation in the case of a detached or semi-detached dwelling and not to be construed to apply to any other side elevation of a dwelling's rear projection as in this case to a terraced house. In terms of a potential conflict with the other parts of the GDPO referred to, it is necessary that the proposal accords with all relevant limitations that are applicable, included in this case those specified in paragraph A.1.(j)(iii).
11. There is no suggestion in either the GDPO or the Technical Guidance that whether the single storey projection would be demolished or incorporated into the proposed extension is of relevance to the application of paragraph A.1.(j)(iii). In any event therefore, it would still be considered to have formed part of the original dwellinghouse for the purposes of applying paragraph A.1.(j)(iii), even if it had been demolished. Speculation relating to the intentions of the legislation is also not relevant when making an assessment against the actual provisions set out within it.
12. For these reasons, I conclude that the proposal would represent an enlargement of the dwellinghouse which would extend beyond a wall forming a side elevation of the original dwellinghouse and which would have a width greater than half the width of the original dwellinghouse. The proposal would therefore not accord with paragraph A.1.(j)(iii) of the GDPO and would not be permitted development. Consequently, the appeal should be dismissed.

Graham Wraight

INSPECTOR