



Appeal Decision

Site visit made on 10 January 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/A3655/D/21/3275476

74 Balmoral Drive, Woking, Surrey GU22 8EY

- 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 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr M Azad against the decision of Woking Borough Council.
 - The application Ref PLAN/2021/0169, received on 11 February 2021, was refused by notice dated 25 March 2021.
 - The development proposed is described as, "Rear Extension to form disabled bathroom".
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Decision

1. The appeal is dismissed.

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) (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 with the conditions, limitations or restrictions that are applicable to such permitted development. The Council refused the application on this basis.
4. The Council also refused the application under paragraph A.4(7) to Part 1, which requires the Local Planning Authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received. However, this matter only falls to be considered if the proposal would constitute permitted development, which I address below.

Main Issue

5. The main issue in this appeal is whether the proposed development would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The appeal site comprises a 2-storey end-of-terrace dwelling. The original dwellinghouse has previously been extended, by way of a 2-storey extension, following application Ref DC/80/1401. The proposal is for a single-storey rear extension, to be joined to the existing 2-storey extension.
7. A.1(ja) of Class A of Part 1 of Schedule 2 of the GPDO specifies that development is not permitted by Class A if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j) of A.1. In this instance, the 'total enlargement' referred to in A.1(ja) includes the existing 2-storey extension as well as the proposed single-storey extension. According to the submitted plans the existing 2-storey extension is approximately 3.6 metres in depth.
8. A.1(h)(i) provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would have more than a single storey and would extend beyond the rear wall of the original dwellinghouse by more than 3 metres. The 'total enlargement', as defined in A.1(ja), would include the existing 2-storey extension, and so would in part have more than a single storey. It would also extend beyond the rear wall of the original dwellinghouse by more than 3 metres. Accordingly, taking account of the requirements of A.1(ja), the proposal would exceed the limits set out in A.1(h)(i).
9. A.1(i) provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres. The 'total enlargement', which would include the existing 2-storey extension, would be situated on the boundary with 72 Balmoral Drive and would in part have an eaves height in excess of 3 metres. Hence, taking account of the requirements of A.1(ja), the proposal would also exceed the limits set out in A.1(i).
10. For the reasons given above, the proposal would not comply with all of the requirements of paragraph A.1. Thus, the proposed development would not be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Other Matters

11. The application form before me refers to a disabled bathroom. However, the provisions of the Public Sector Equality Duty contained in the Equality Act 2010 (as amended) are not applicable in this case, as the GPDO offers no discretion; its requirements are a matter of law. As such, this matter does not change my findings on the main issue in this appeal.

Conclusion

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

Alexander O'Doherty

INSPECTOR