

Appeal Decision

Site visit made on 4 January 2022

by John Gunn Dip TP, Dip DBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/J1915/D/21/3283160

19 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NY

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Valentin Mangu and Andreea Vrancea against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1664/PNHH, dated 23 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is a single storey side (depth 8m, width 5.5m, height 3.8m and eaves 2.4m) and single storey rear extension (depth 7.9m, width 5.2m, height 3.4m and eaves height 2.4m).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 1, Class A4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a single storey side (depth 8m, width 5.5m, height 3.8m and eaves 2.4m) and single storey rear extension (depth 7.9m, width 5.2m, height 3.4m and eaves height 2.4m) at 19 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NY in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 1 Paragraph A4 (2) of the GPDO.

Preliminary Matter

2. I have taken the description of development above from the Council's decision notice and the appeal form as it is more succinct than the description included in the planning application form.

Main Issues

3. The main issues are:
 - whether the development would be permitted development (PD) under Schedule 2, Part 1, Class A of the GPDO, and
 - if the proposal is PD under the provisions of the GPDO, whether prior approval should be granted.

Reasons

Permitted development

4. Clause (ja) of Class A, Part 1 of Schedule 2 of the GPDO states that development is not permitted 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)”. Sub-paragraph (j)(iii) confirms that where 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, development is not permitted.
5. The proposed development would involve the erection of two distinct extensions. A gap of approximately 0.45 metre would exist between the flank wall of the proposed rear extension and the flank wall of the proposed side extension. A smaller gap of 0.34 metre would exist between the flank wall of the proposed rear extension and the flank wall of the existing kitchen. The roofs would project a short distance beyond the respective walls of the proposed extensions. Therefore, whilst the extensions would be close to each other, and to the earlier kitchen extension, they would not be physically linked.
6. I note the findings of the Inspector in appeal Ref APP/M4320/W/17/3178679, referred to in the Delegated Officer Report. In summary their reasoning was that as an approximate gap of 250mm was ‘too narrow to be material’, the scheme in that instance did not comply with the relevant limitations of the applicable GPDO provisions. I note that decision references other cases where reasoning was along a similar theme (albeit, it seems, with narrower ‘gaps’ between proposals, or elements thereof, of around 25mm to 50mm). It may be logical in certain circumstances to consider such matters, however there is no yardstick set in the GPDO, or elsewhere, as to the factors to consider in terms of compliance with GPDO limitations. The precise circumstances related to that case, obviously proposed different sized extensions in relation to a different sized original building.
7. Whilst, appreciating that consistency is important in appeal decisions, in my view the principal consideration is whether or not a scheme would comply with GPDO limitations in strict dimensional terms. Within that frame of reference, the scheme before me would be separated by a gap of between 0.34 to 0.45 metres, and both the side and rear extensions would individually comply with the respective limitations of permitted development rights in their own respects, as set out by the appellants. That latter point, significantly, is borne out by the subsequent approval of similar applications 3/21/2902/PNHH and 3/21/2467/PNHH, which separately confirm the compliance of the same sized side and rear extensions with GPDO requirements.
8. Moreover, I would note that 0.34 to 0.45 metres is a larger separation between elements of a scheme than that considered by the inspector in respect of the aforementioned appeal (and the Inspectors who dealt with schemes referred to in their decision). In my view visually the two elements of the scheme would also be read as distinct on account of the roof pitch proposed to each, in addition to the gap between them.
9. In light of the above I conclude that the proposed development would be ‘permitted development’ under Schedule 2, Part 1, Class A of the Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Prior approval

10. On the basis that the Council have carried out the correct consultation and no objections have been received, I need not consider the impact of the proposal on the amenity of adjoining occupiers.

Other matters

11. I have taken into consideration the two applications referred to by the appellants, relating to developments falling within Class A, that have been approved by the Council. However, every case has to be determined on its own merits and these do not alter the conclusions that I have reached above.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

John Gunn

INSPECTOR