The Planning Inspectorate

Appeal Decision

Site visit made on 1 March 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/B5480/W/21/3276533
165 Squirrels Heath Road, Romford RM3 0NS

- 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 Mrs Valbona Papushi against the decision of the Council of the London Borough of Havering.
- The application ref: Y0244.21, dated 1 May 2021, was refused by notice dated 11 May 2021.
- The development proposed is described on the application form as 'erection of single storey rear extension'.

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 (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.

4. Paragraph A.4(7) to Part 1 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.

5. Notwithstanding this, Paragraph A.4(4) to Part 1 states that sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act, such a refusal is to be treated as a refusal of an application for approval.

6. In this case, the Council refused prior approval on the basis that the proposed development was considered to be a side extension. As such, they alleged that

the side extension exceeded the limitations set out under Class A.1(j), given that the extension is more than half the width of the original dwellinghouse.

Main Issue

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

Reasons

8. The host property is a two-storey semi-detached dwelling. The proposal is for a single storey extension which would be located to the rear of the host property. However, the rear elevation as shown on the submitted plans includes a small single storey projecting element. The Technical Guidance[1] (2019), published by the Government, includes guidance on the application of the GPDO where the original dwellinghouse includes a staggered rear elevation, such as is the case here. It 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.

9. The diagram on page 22 of the Technical Guidance is particularly relevant and if applied to the host property it clearly indicates that the side of the single storey projecting element comprises a side elevation of the dwelling, given that it does not comprises a front or rear wall. The Technical Guidance (page 23) also states that where an extension fills the area between a side elevation and a rear wall, then the restrictions on extensions beyond rear walls and side walls will both apply.

10. As such, in this case, the development would project beyond the side and rear walls of the original dwelling and as such, the limitations and conditions under both Class A.1(g) and A.1(j) apply.

11. At the time of my site visit the projecting element had been demolished. However, the appellant has not provided any compelling evidence to demonstrate that it was not part of the original dwellinghouse. Indeed, the appellant makes no such assertion. On the basis of the approved plans, and in the absence of evidence to the contrary, at least part of the projecting element (which may have had a small extension added, based on my interpretation of the submitted plans) can be considered to be part of the original dwellinghouse for the purposes of applying the provisions of the GPDO.

12. The fact that the projecting element has now been demolished does not alter this conclusion. The Council has referred to the judgement in Arnold v Secretary of State for Communities and Local Government [2015] EWHC 1197 (Admin), which it suggests supports this position. However, I have not been provided with a copy of this judgment. Nonetheless, the Technical Guidance defines the term 'Original' as 'a building as it existed on 1 July 1948 where it was built before that date, and as it was built if built after that date'. On the basis of this definition, even if part of the original dwellinghouse is demolished, that does not preclude it from remaining part of the original dwellinghouse for the purposes of applying the provisions of the GPDO.

13. Both main parties have provided appeal decisions where Inspectors have taken differing approaches in considering partially demolished dwellings (and what constitutes the 'original dwellinghouse'). However, I do not know the precise

[1] Technical Guidance – Permitted Development Rights for Householders (2019)

case-specific circumstances which applied in those instances and as such these decisions do not alter my approach or findings.

14. The proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse and would be more than half the width of the original dwellinghouse, given that it would be the same width as the dwelling. As such, it would exceed the limitation set out at sub paragraph (iii) of Class A.1(j). As a result, the proposed development does not constitute permitted development under Schedule 2, Part 1, Class A of the GPDO, regardless of whether the development is within the limitations set out under Class A.1(g).

15. On that basis, there is no need for me to consider prior approval matters under Paragraph A.4(7), pertaining to the 'amenity of all adjoining premises'.

Other Matters

16. The Appellant outlines that a previous application was made to the Council[2] for a similar development where the Council, in refusing prior approval, did not identify any conflict with the requirements under Class A.1(j) However, I am not fettered by any such absence in the previous conclusions made by the Council. Indeed, the main issue in this case is one of fact and degree. As such, this consideration does not alter my findings.

Conclusion

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

Luke Simpson

INSPECTOR

[2] Council reference: Y0099.21