

Appeal Decision

Site visit made on 23 February 2022 by B Phillips BSc MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022

Appeal Ref: APP/G5750/D/21/3277443

12 Manbrough Avenue, East Ham, London E6 6HZ

- 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, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Abdul Kalam against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/00933/PREHH, dated 13 April 2021, was refused by notice dated 27 May 2021.
 - The development proposed is described as "single-storey rear extension".
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. 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.
4. 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.
5. Paragraph A.4(7) to Part 1 requires that where any owner or occupier of adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises, taking into account any representations received.

Main Issues

6. The main issues are whether the proposed development would be granted permission by Article 3, Schedule 2, Part 1, Class A of the GPDO and the impact of the proposed development on the amenity of adjoining premises.

Reasons for the Recommendation

7. Paragraphs A.4.(2) (a) and (b) of the GPDO require specific information to be provided for applications for development which exceeds the limits in paragraph A.1(f) but which is allowed by paragraph A.1(g). This comprises a written description of the proposed development including how far it would extend from the original rear wall, maximum height, eaves height, and a plan indicating the site and showing the proposed development and any existing enlargement of the original dwellinghouse to which the enlarged part will be joined.
8. The application form includes sections for a description of the development and requires details of the various dimensions needed to comply with paragraph A.4.(2)a). In this case the form describes the proposal as 'single storey rear extension'. However, the submitted block plan shows the proposed development with a stepped layout and a line in the centre. This line is clarified by the submitted elevation and floor plans, which show two extensions separated by a 15cm gap in the centre.
9. As a result of this inconsistency, the Council considered that there was insufficient information to show that the proposal would comply with the conditions of the GPDO. Furthermore, it determined that, considered as a single extension, the proposed development would not comply with criterion A.1.j) iii as it would extend from a side wall of the dwelling and have a width greater than half that of the original dwellinghouse.
10. While there is some inconsistency between the written description and the plans, the plans clearly show what is being proposed. The dimensions and details on the plans accord with the application form and the plans include details of the original dwelling and previous extensions which are to be demolished as part of this proposal, the extent of which is not disputed. It is evident from the Council's officer report that it was fully aware that the appellant was seeking to construct two different extensions separated by a 150mm gap. Therefore, I consider that sufficient information has been provided to enable me to establish whether the proposed development complies with the GDPO.
11. The Council considers that the 150mm gap between the two projections is not sufficient to result in two separate extensions and refer me to an appeal decision¹ where it was considered that a proposed rear extension would be contiguous with existing extensions and would therefore exceed the limitations of the GPDO. No plans of that scheme have been submitted and I note that it was for a Certificate of Lawful Proposed Development, not an application for prior approval. Notwithstanding this, the Inspector in that case concluded that a gap of 5 centimetres would not be a material separation between two extensions and did not accord with the approach advocated in the Government's Technical Guidance. In particular, the Inspector found that a

1. ¹ APP/Y9507/X/16/3157675

plinth element would reduce this gap, possibly 'to the extent that the two extensions would touch.' They therefore considered that the existing and proposed extensions would be contiguous.

12. In this case however, the proposed plans show a 15cm gap between the two extensions with no plinth at the base and no overhang at roof level. That is the basis on which I must determine the appeal. This gap is clearly discernible on the plans and there is no substantive evidence before me to demonstrate why it would not be clearly visible if built in accordance with them. Moreover, the two extensions would each be 6m deep from the respective original rear walls, so would have a stepped appearance which would further accentuate their separation. Consequently, I consider that it is clear that two separate extensions are proposed.
13. Class A allows for 'the enlargement, improvement or other alteration of a dwellinghouse' and the various criteria within it refer to 'the enlarged part of the dwellinghouse'. I can see nothing in Class A or paragraph A.1(g) to prevent an application being made for more than one extension at the same time under the prior approval process.
14. Paragraph A.4.(11) of the GPDO requires that the development be constructed in accordance with the submitted details. If it did not accord with those details it would not be permitted development and would be a matter for the Council's enforcement team. The practicalities of constructing and subsequently maintaining the development are not matters for me to consider.
15. The depth, height, eaves height and materials of the proposed extensions would comply with the limitations of Class A. As two separate extensions, neither would extend beyond a wall forming a side elevation of the original dwellinghouse and therefore would comply with paragraph A.1.(j). On that basis, the proposed development would comply with the limitations and restrictions in paragraph A.1 and would be granted permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.
16. Nonetheless, an objection letter has been received and submitted by the Council as part of its appeal documents. Therefore, the requirement to consider the impact of the proposal on the amenity of any adjoining premises is engaged.

Amenity

17. The attached neighbour No 14 has a rear conservatory the same depth as the existing ground floor extension of the appeal property. The proposed extension on this side would be 3m high, would extend well beyond the conservatory and be sited directly next to it.
18. While No 14 would retain an outlook over its good-sized garden from the conservatory, the proposal would introduce a substantial blank elevation in close proximity to that room, extending a significant distance along the boundary. Furthermore, the proposed extension would be significantly taller than the existing boundary fence. As a result, the closer extension would appear overbearing and visually dominant when seen from the conservatory and, to a lesser extent, the garden of No 14. Accordingly, due to its siting, height and depth, the proposal would significantly and harmfully reduce the

outlook from No 14 and, consequently, the living conditions of the occupiers of that property.

19. The proposed extensions would be sited northwest of No 14, therefore they would not have a significant impact on light reaching that property.
20. No 10 is separated from the appeal property by a narrow gap and has a single storey rear projection which the submitted plans show extends well past the original rear wall of the appeal property. As such the proposed 6m extension on this side would not extend significantly past this existing projection, which has no side elevation windows. Therefore, it would have a limited impact on the outlook from the rear of No 10 and its garden and would have little impact on light to that property. The separation distance and intervening structures between the proposed extensions and properties to the rear mean that there would be no significant effect on the amenity of their occupants.
21. Accordingly, I find that while the proposal would not harm the amenity or living conditions of some adjoining premises, it would result in unacceptable harm to the amenity of the occupiers of No 14. Therefore, prior approval should not be granted.

Conclusion and Recommendation

22. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. On that basis the appeal is dismissed.

L McKay

INSPECTOR