
Appeal Decision

Site visit made on 7 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/M5450/D/21/3276841

78 The Highlands, Edgware, HA8 5HH

- 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 Dilip Jilka against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0739/21/PRIOR, dated 18 February 2021, was refused by notice dated 15 April 2021.
 - The development proposed is a single storey rear extension: 5 metres deep, 3.8 metres maximum height and 3.8 metres high to the eaves.
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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.

Procedural Matters

3. The description of development above is taken from part E of the appeal form and the Council's Decision Notice. This is in the interest of clarity.
4. The Council submitted a supplementary statement regarding this appeal, and the appellant has had an opportunity to respond, but did not submit any further comments
5. 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.

Main Issue

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

Reasons for the Recommendation

7. 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.

8. The GPDO is legislation, not guidance, and proposals under Class A must be considered against the legislation only, with no provision for consideration of the planning merits of the case other than where objections are received, in which case consideration must be given to the prior approval matter of amenity. In this instance no objections were received and as such this issue does not stand to be considered.
9. Under clause A.1(ja) of Class A, Part 1, Schedule 2 of the GPDO, 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).'*
10. Limitation A.1(j) states development is not permitted under Class A if *"the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (iii) have a width greater than half the width of the original dwellinghouse."*
11. There is an existing extension across the full width of the rear of the property and wrapping around the side. The proposed extension would attach to the rear of this. According to the coloured drawings submitted by the Council, which the appellant does not dispute, the rear elevation of the original dwellinghouse was stepped, meaning there were two original rear walls and a small side wall connecting the two. The proposal would extend beyond that original side wall. Consequently, and as shown in example diagrams on pages 27 and 28 of the Government's Technical Guidance¹, the total enlargement would extend past the original side wall and have a width greater than half the original property. It would not therefore comply with A.1(j) or A.1(ja).
12. Limitation A.1 (i) of the GPDO states that development would not be permitted under 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'*
13. The plan shows that the proposed extension would sit just off the side boundary with No 76, clearly within 2m of it. The application form and appeal statement set out that its eaves height would be 3.8m. As such, the proposed extension would also fail to meet this limitation.
14. While the proposed development would comply with other restrictions, limitations and conditions of Part A, it must comply with all relevant criteria to be permitted development, which it does not.
15. I understand that the extension is for an accessible bedroom for the elderly appellants however improved accommodation is not a matter that I can consider in determining this appeal which only requires assessment of compliance against the GPDO. The planning merits of the case, including the

¹ Ministry of Housing, Communities & Local Government – Permitted development for householders Technical Guidance 2019 (page 22).

design and site circumstances, do not stand to be considered in this type of appeal.

16. My attention has been drawn to examples where prior approval has been granted by the Council for proposals that the appellant contends are comparable to this case. Neither involves an extension wrapping around to the side of the dwelling, and both would have eaves heights of 3m, therefore they are not directly comparable to the appeal scheme. Notwithstanding this, the examples do not alter the requirements of the legislation on which I must base my decision.
17. For the above reasons, I conclude that the extension would not accord with limitations A.1(ja) and A.1 (j) of Class A. Therefore, the development would not be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.

Conclusion and Recommendation

18. 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

19. 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