
Appeal Decision

Site visit made on 27 February 2022 by S Witherley CIHCM MRTPI

Decision by J Hunter BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2022

Appeal Ref: APP/D5120/D/21/3280939

28 Watersmeet Way, London, SE28 8PU

- 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) Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Grace Amayo on behalf of Setsquare Places Limited, against the decision of the Council of the London Borough of Bexley.
 - The application Ref 21/01675/GPDE, dated 12 May 2021, was refused by notice dated 22 June 2021.
 - The development proposed is: The erection of a single storey rear extension, which the total extension (including previous enlargements) would extend beyond the rear wall of the original dwelling by 5 metres, for which the maximum height of the total enlargement will be 3.5 metres, and for which the height of the eaves would be 2.3 metres.
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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. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 (GPDO) require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations. There are effectively two stages to assessment – the first being eligibility. The Council at the time of the prior approval application concluded that the proposal was eligible to be considered under the prior approval process and did not raise any conflict with the conditions set out in the GDPO. They did, however, raise concerns in respect of the effect of the development upon the impact upon the adjoining neighbouring amenity.
4. However, at the time of the site visit, the premises were operating as a care home. Neither party mentioned this in their submissions, therefore, the views of both parties were sought regarding the lawful use of the premises for the purposes of the prior approval application. In order to fall within the definitional scope of Part 1 Class A of the GPDO it is a requirement that the premises is a dwellinghouse.

5. The appellant confirmed that this matter was not '*brought up in this application but was only raised in a second application after the appeal was lodged.*' They submitted a copy of a decision notice, issued by the Council, for the '*Change of use to a home for vulnerable children (falling within Use Class C2). Retention of garage conversion to habitable room*'. This was granted under planning reference: 18/00865/FUL, dated 12 October 2018. The current lawful use of the premises is, therefore, a care home within Use Class C2.
6. Having regard to the above planning permission and confirmation during the site visit that the premises is operating as a care home, it can be concluded that the premises is no longer a dwellinghouse for the purposes of the GPDO.
7. Based on the above evidence, the proposed development, in the form of the enlarged rear ground floor extension fails to adhere to the requirements of the GPDO in that it is not a dwellinghouse and therefore does not fall under the householder permitted development regime. As such, prior approval cannot be granted, and the appeal must fail for this reason.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

J Hunter

INSPECTOR