



Appeal Decision

Site visit made on 25 April 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/W2845/D/21/3284998

138 Kingsley Road, Northampton NN2 7BY

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mo Kumar against the decision of West Northamptonshire Council.
 - The application Ref WNN/2021/0477, dated 10 July 2021, was refused by notice dated 19 August 2021.
 - The development proposed is for a rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application for Prior Approval was subject to consultation with neighbouring occupiers, by virtue of Paragraph A.4 (7) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Paragraph A.4(2) specifies that the applicant must make an application to the Council and that the Council would need to give its prior approval of the development if an adjoining occupier/owner objects to the scheme. The Council has reported that no comments were received.

Background and Main Issue

3. Article 3(1) and Schedule 2, Part 1, Class A, of the GPDO allows for the enlargement, improvement or other alteration of a dwellinghouse. That 'permitted development right' is subject to limitations and conditions, including those set out in paragraphs A.1(g) and (j) of Class A. Paragraph A.1(g) of the Order grants, among other provisions, planning permission for a rear extension that would not exceed 6 metres. It is undisputed between parties that the provisions of paragraph A.1 are satisfied apart from in regard to paragraph A.1(j) with respect to side elevations. Part (iii), of this provision, explains that the right would be exceeded if such an extension would be more than half the width of the original dwellinghouse.
4. Therefore, the main issue is whether the proposed development complies with the limitations imposed under paragraph A.1(j) on development permitted under Class A and, if so, whether Prior Approval should be granted.

Reasons

5. The host dwelling is a semi-detached property with a short two-storey rear return that creates a staggered rear building line. The proposed extension would project into the rear garden by around 5.2 metres and have a maximum height of 3.9 metres. It would wraparound the rear projection and therefore be of two varying depths; neither of which being greater than six metres.
6. The Government's Guidance "Permitted Development Rights for Householders – technical guidance" 2019 (The Guidance) provides advice as to how Class A applies to various situations. Page 22 of the guidance explains that a wall forming a side elevation will be any wall that cannot be identified as a front or rear wall. It also notes that a house will often have more than two side elevations. Due to its staggered rear elevation the semi-detached dwelling has two side elevations. The guidance is clear that paragraph (j) will apply to each side wall. The element of the extension that would be construed as a side extension would fill the gap from the side wall of the rear return towards the shared boundary with No 136.
7. The proposal therefore represents a side and rear extension. The guidance states that where an extension would fill an area between a side and rear elevation then both restrictions for rear and side elevations apply.
8. Page 18 of the guidance explains that a staggered rear elevation could have multiple separate rear extensions. In the example footprint shown, on page 18, each rear extension would be Permitted Development as each would not exceed a depth of three metres. However, these are not connected and therefore do not create a single extension. The proposed extension is different to this case as the enlarged part of the dwelling would have a single conjoined form. Therefore, whilst the proposed extension would be to the rear of the dwelling it would be of a width greater than half the width of the original dwelling.
9. As such, being a combination of side and rear components, the proposed extension would not satisfy the requirements of all parts of Class A.1 and would not therefore be permitted development.
10. The appellant refers to similar other cases but has not included these for my review. As such, it is unclear whether these are sufficiently similar to illustrate an inconsistent approach by the Council.
11. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR