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## Appeal Decision

Site visit made on 10 May 2022

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 May 2022**

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**Appeal Ref: APP/B5480/D/21/3282956**

**37 Jutsums Lane, Romford RM7 9HH**

- 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 GPDO).
  - The appeal is made by Mr Wasay Ali against the decision of the Council of the London Borough of Havering.
  - The application Ref Y0362.21, dated 13 July 2021, was refused by notice dated 29 July 2021.
  - The development proposed is erection of single storey rear extension.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. There is a minor error in the description of development as given on the submitted documents, and I have amended this to accurately reflect the proposal.

### Main Issue

3. The main issue is whether the proposal would comply with Schedule 2, Part 1, Class A of the GPDO.

### Reasons

4. The appeal property is a semi-detached dwelling with single storey offshoots located to the rear. The Council's reason for refusal states that the proposal is not permitted development.
5. Schedule 2, Part 1, Class A, Paragraph A.1 (j) (iii) of the GPDO sets out that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and which would have a width greater than half the width of the original dwellinghouse. The appeal is based on this point.
6. The Council states that for clarity the furthest forward 'original rear wall' on the existing plans is marked as a ground floor w.c, which is one of the offshoots I observed. The proposal would extend beyond a side wall of this offshoot.

7. The appellant submits that the proposal would not extend beyond walls forming side elevations of the original dwellinghouse as these would be demolished.
8. However, the Council has referred to the case law of *Arnold*<sup>1</sup> which it considers establishes that the starting point should be the location of the original wall, based on the original footprint of the house, whether the wall has been demolished or not. This reflects the definition of the term "original" in the Technical Guidance<sup>2</sup> which sets out that this means 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. It is therefore clear that there is no provision within the GPDO to the effect that if original walls are demolished then the limitations within it no longer apply.
9. Both the Council and the appellant have referred to appeal decisions which support their interpretation of the GPDO. However, the appeal decision<sup>3</sup> referred to by the appellant does not reflect the case law of *Arnold* or the Technical Guidance, and this therefore does not lead me to a different conclusion based upon what I have seen and read.
10. I conclude that the proposal would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse. Consequently, the proposal would fail to comply with Schedule 2, Part 1, Class A, Paragraph A.1 (j) (iii) of the GPDO. The appeal should therefore be dismissed.

*David Cross*

INSPECTOR

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<sup>1</sup> *Arnold V Secretary Of State For Communities And Local Government* [2015] EWHC 1197 (Admin)

<sup>2</sup> Permitted development rights for householders - Technical Guidance; Ministry of Housing, Communities and Local Government (September 2019)

<sup>3</sup> Appeal ref: APP/Z5630/D/20/3264588