



Appeal Decision

Site visit made on 20 September 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 SEPTEMBER 2022

Appeal Ref: APP/W2465/W/22/3293552

57 Aberdale Road, Leicester LE2 6GE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and 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 H Singh against the decision of Leicester City Council.
 - The application Ref 20220005, dated 23 December 2021, was refused by notice dated 31 January 2022.
 - The development proposed is a Single Storey Rear Extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Decision Notice was issued on 31 January 2022. It does not expressly state that prior approval of the development was refused. However, the effect of the Notice was to confirm that the Council considered that the proposed development lay outside of the scope of the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (Class A of the GPDO) and therefore the prior notification procedure set out within that class for a larger home extension was not available to him. Looking at the notice as a whole, I find it is reasonable to read the notice as a refusal of prior approval and I have proceeded on that basis.
3. At the time of my site inspection, it was not possible to enter the rear of the site. Accordingly, I have assessed the proposal on the basis of the information that was before the Council when it made its decision.

Main Issues

4. The main issue is whether or not the proposal is permitted under Class A of the GPDO having regard to the conditions, limitations and restrictions applicable to development permitted by that Class.

Reasons

5. The appeal relates to an extended semi-detached dwelling in a row of residential houses to the western side of Aberdale Road. The application form describes the proposed extension as 5.5m from the rear wall of the original dwelling with a maximum height of 3.00m and an eaves height of 2.8m. A plan accompanying the application shows the extension to the rear of the main house and connecting to the side and rear wall of an existing rearward

- projecting element of the dwelling. This is not identified¹ as a previous extension.
6. A single storey extension to a semi-detached dwelling projecting more than 3m would exceed the limits set out in paragraph A.1(f) but is permitted by paragraph A.1(g) subject to the procedure set out in paragraph A.4 of Class A. This is also subject to the other restrictions placed on the enlargement, improvement or other alteration of a dwellinghouse set out in Paragraph A.1. and the Conditions specified in paragraph A.3.
 7. Paragraph A.4.(3)(a) states that the local planning authority may refuse an application where, in the opinion of the authority—the proposed development does not comply with the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).'
 8. The proposed rear extension would attach to the side elevation of the existing rear projection. Paragraph A.1.(j)(iii) excludes development from the Class A provisions where the enlarged part of the dwellinghouse 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.
 9. The plan shows the rear extension to cover much, if not all, of the original width of the dwellinghouse. It would thereby exceed the limit specified in Paragraph A.1.(j)(iii). It is not therefore permitted by paragraph A.
 10. In support of the proposal the appellant has referred me to a number of other cases where prior notification has been approved by the Council for large rear extensions. However, the Council have provided evidence showing that these were not subject to the restriction specified at paragraph A.1.(j)(iii). Those extensions did not connect to a side wall of an original part of the dwellinghouse and they are therefore distinct from the case before me.
 11. For the above reasons, and having regard to paragraph A.4.(3)(a), I find the development shown lies beyond the scope of development permitted by Class A of the GDPO. The Council was therefore entitled to reach its decision and there is no dispute between the main parties that it was notified within the relevant 42 day period.

Other Matters

12. I note the appellant's statement that the extension was to assist disabled living. Unlike applications for full planning permission, where the assessment of the planning merits extend to the development plan and other material considerations, proposals under Class A are not subject to those wider factors. It is subject only to the specifications set out within the applicable part of the GDPO. Personal circumstances are not therefore a relevant matter in the case of a prior notification application.
13. I note the concerns of an immediate neighbour in respect of potential effects on living conditions arising from loss of daylight. However, subsequent to my finding that the proposal conflicts with the limitations in paragraph A.1, the assessment in paragraph A.4.(7), relating to the impact of the proposed

¹ As required under Para. A.4.(2)(b) where applicable

development on the amenity of any adjoining premises does not apply, and my decision does not turn on that matter.

Conclusion

14. For the reasons given the appeal is dismissed.

R Hitchcock

INSPECTOR