



Appeal Decision

Site visit made on 4 October 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/E5330/D/22/3292346

72 Chapel Farm Road, Eltham, London SE9 3NQ

- 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, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs Edward and Jun Jackson against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 21/4196/PN1, dated 24 November 2021, was refused by notice dated 5 January 2022.
 - The development proposed is for the construction of a single storey rear extension which will extend beyond the rear wall of the original dwelling by 6.00m, for which the maximum height will be 3.57m and the height at the eaves will be 3.00m
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of 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) for the construction of a single storey rear extension which will extend beyond the rear wall of the original dwelling by 6.00m, for which the maximum height will be 3.57m and the height at the eaves will be 3.00m at 72 Chapel Farm Road, Eltham, London SE9 3NQ in accordance with the terms of the application, Ref 21/4196/PN1, dated 24 November 2021, and the plans submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4.

Preliminary Matters

2. 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.
3. 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 – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.
4. Having assessed the application, the Council is content that the development meets all limitations and restrictions other than that relating to Paragraph

A.1(j)(iii). I have no reason to conclude otherwise in respect of the Council's findings regarding the other limitations and restrictions.

5. I have taken the description of development from that used in both the Council's decision notice and appellants' appeal form.

Main Issue

6. The main issue is therefore whether or not the proposed development would extend beyond a wall forming a side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse.

Reasons

7. The Council considers that the chimney breast which protrudes from the rear elevation of the dwelling would constitute a side wall and thus the development would be contrary to Paragraph A.1(j)(iii).
8. The chimney breast extends from the ground to approximately a metre above eaves level. It is wider at its base than at its top and appeared to be no more than one brick length in its protrusion from the rear elevation.
9. Whilst the chimney breast is a visible feature, its depth of projection is not so significant that it could reasonably be described as anything other than a feature of the rear elevation. Accordingly, I find that as a matter of fact and degree, its walls do not possess the characteristics of side elevations and therefore it does not constitute a side wall for the purposes of the GPDO.
10. As a result, I find that the proposed development would not extend beyond a wall forming a side elevation of the original dwellinghouse. It would therefore be permitted development within the terms of Schedule 2, Part 1, Class A of the GPDO. The Officer Report confirms that no objections were received from neighbouring occupiers and so prior approval is not required.

Other Matters

11. I note that the chimney would be demolished to make way for the proposed extension. However, the limitations to permitted development are based on the original dwellinghouse and apply even if part of the original is removed. Accordingly, the demolition of the chimney carries no weight in my decision.
12. I have had regard to the Permitted Development Rights for Householders: Technical Guidance. I note that it is an aid to the interpretation and application of the Order and so is not definitive. In this particular instance, I do not find that there is anything in the guidance which leads me to alter my conclusion.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed and prior approval is not required.

Stewart Glassar

INSPECTOR