



Appeal Decision

Site visit made on 21 November 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/N1920/D/22/3298748 45 Caldecote Gardens, Bushey WD23 4GP

- 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 Mahesh Aryal against the decision of Hertsmere Borough Council.
 - The application Ref 22/0408/PD42, dated 7 March 2022, was refused by notice dated 14 April 2022.
 - The development proposed is a single storey rear extension and associated elevational alterations.
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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 a single storey rear extension and associated elevational alterations at 45 Caldecote Gardens, Bushey WD23 4GP in accordance with the application Ref 22/0408/PD42 made on 7 March 2022, and the details submitted with it, including HM Land Registry site location plan and plan numbers 45CALDECOTEGDNS-001, 002, 003, 004 and 005, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Background

2. Article 3(1) and Schedule 2, Part 1, Class A of the GPDO grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse subject to conditions, limitations or restrictions.
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), paragraph A.4(3)(a) provides that the local planning authority may refuse the application where it considers the proposal does not comply with the conditions, limitations or restrictions applicable to development permitted by Class A.
4. Development is not permitted by Class A if under the limitation in paragraph A.1(k)(i) it would consist of or include the construction or provision of a verandah, balcony or raised platform. It is common ground that the first two of these structures does not apply in this case. The Council considers that the proposal includes 'a raised platform/staircase' which exceeds 0.3m high and refused prior approval for this reason. It otherwise agrees that the proposal would comply with the relevant limitations of Class A as set out in paragraph

A.1 and with the relevant conditions in paragraph A.3. I have no reason to find otherwise.

Main Issues

5. Given this background, these are:

- whether the proposed development would be permitted development under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO; and
- if so, whether prior approval is required with regard to paragraph A.4(7).

Reasons

Permitted development

6. At the appeal site, the rear garden of No.45 Caldecote Gardens slopes down and away from the back of this detached dwelling. The internal floor level of the proposed single storey rear extension would continue at the same level as the ground floor of the dwelling. As a result, bi-fold doors across most of the rear elevation of the extension would be elevated above the level of the back garden. A staircase the same width as the bi-fold doors would connect the internal living space to the garden. The appellant agrees that the staircase would have a maximum height of about 1.1m above the adjacent ground level at this point.
7. Paragraph A.1(k)(i) of the GPDO does not include a 'staircase' and does not define a 'platform'. For the purposes of Part 1, Paragraph I of the GPDO defines 'raised' in relation to a platform to mean a platform with a height greater than 0.3m. The Government's Permitted development rights for householders Technical Guidance (September 2019) elaborates only insofar as that a raised platform will include roof terraces, which does not apply in this case.
8. Though level and wide, each tread of the staircase would be shallow in depth. There would be no handrail either side or means of enclosure and no roof covering. Beyond the top step a landing area would be within the extension as part of the room. Consequently, the staircase would have very limited or safe useable surface space. It would not, therefore, be suitable for people to stand on for any purpose other than access, nor would it be conducive to sit on.
9. I find that each tread taken individually and the staircase as a whole does not constitute a raised platform. Its inclusion as part of the proposed development would not, therefore, be in conflict with Paragraph A.1(k)(i). Accordingly, the proposed development would be permitted development under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO.

Prior approval

10. Paragraph A.4(7) requires that where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.
11. The Council consulted the occupiers of the adjoining dwellings at application and appeal stages. No representations were received thus there is no such amenity objection in this case. Accordingly, I find that prior approval is not

required with regard to paragraph A.4(7). It has not been suggested that prior approval would be required for any other reason.

Conditions

12. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in Paragraph A.3. These include a requirement for the exterior materials to be similar in appearance to those used in the construction of the existing dwellinghouse. The formal decision above includes reference to the approved plans.

Conclusion

13. For the reasons given above the appeal succeeds.

Robin Buchanan

INSPECTOR