



Appeal Decision

Site visit made on 05 January 2023

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2023

Appeal Ref: APP/M1595/D/22/3291706

20 Leighton Gardens, Tilbury RM18 8ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Zoltan Pizar against the decision of Thurrock Borough Council.
 - The application Ref 21/01909/PHA, dated 31 October 2021, was refused by notice dated 10 December 2021.
 - The development proposed is rear extension with a depth of 6 metres from the original rear wall of the property, with a maximum height of 4 metres and eaves height of 3 metres.
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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) ('the GPDO') for rear extension with a depth of 6 metres from the original rear wall of the property, with a maximum height of 4 metres and eaves height of 3 metres, at 20 Leighton Gardens, Tilbury RM1 8ND in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO through application ref 21/01909/PHA, dated 31 October 2021, subject to the standard conditions laid out at paragraphs A.3 and A.4 of Schedule 2, Part 1 of the GPDO.

Preliminary Matter

2. The description used by the Council differs from that used by the appellant. However, as it is neutrally written and concisely reflects the development proposed, including the dimensions indicated within the submitted application form, I have also used it.
3. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
4. 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 appellant 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.

Main Issue

5. The main issue is whether the proposal would constitute permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The appeal site is within a street that incorporates some corner terrace blocks with angled footprints. The host dwelling is located in a mid-terrace corner location at the point at which the terrace turns. Accordingly, the front of the property is compact and comprised of two walls set at right-angles to each other. At the reverse of the property, right-angled walls of matching orientations and proportionally larger extent are in place.
7. The Council considers that the proposed development, as a result of its wraparound nature, would extend beyond a side elevation of the property. Paragraph A.1(j)(iii) of Part 1 states that 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 of the width of the original dwellinghouse, that the development would not constitute development permitted under Class A.
8. Although the arrangement of the block containing the appeal property is angled, it remains a terrace. The appeal property is clearly a mid-terrace property, with other dwellings attached where side elevations would otherwise be located. Furthermore, both original rear walls contain doors that open directly into the property's rear garden.
9. The Technical Guidance¹ advises that the rear wall, or walls of a house will be those that are directly opposite the front of the house. The front of the house is experienced as, and is comprised of, both street-facing walls. This is even though each is set on a different alignment to the other. The original rear walls of the property are directly opposite these street-facing walls and, as such, can each be considered a rear wall for the purposes of the provisions of paragraph A.1(g) of the GPDO.
10. I therefore conclude that no part of the proposed development would comprise a side extension. Accordingly, it would not fail the limitations imposed by paragraph A.1(j)(iii) of Part 1.
11. Paragraph A.1(i) of Part 1 states that a proposed enlargement would not be permitted by Class A where it would be within 2 metres (m) of the boundary of the curtilage of the property, and the height of the eaves would exceed 3m.
12. The provided plans contain no information in relation to the potential height of the proposed development. However, the submitted application form, at Part 5, clearly indicates that the eaves height of the proposed development would not exceed 3m in height, and there is no other substantive evidence before me that would lead me to conclude that the eaves height stated at Section 5 of the application form would not be achievable.
13. I accept that the proposed development would, in incorporating a sloped roof, be likely to exceed 3m in height above the eaves level and within 2m of the boundary of the curtilage. However, the limitation set out in paragraph A.1(i)

¹ Permitted development rights for householders – Technical Guidance (MHCLG, 2019)

to Part 1 applies only to the eaves height of the development, and no other element of the roof structure. Accordingly, the proposed development would not fail the limitations imposed by Paragraph A.1(i).

14. The proposed development would, however, exceed the limitations of Paragraph A.1(f) as it would extend beyond the rear wall of the dwellinghouse by more than 3m. With regard to this, Paragraph A.4 makes provision for proposed enlargements that exceed the limits set out in Paragraph A.1(f) but that would be allowed by Paragraph A.1(g), subject to consideration as to whether prior approval would be required. The appeal proposal constitutes such a circumstance, as it would fall within the limits of Paragraph A.1(g).
15. Paragraph A.4(7) states that prior approval will be required where any owner or occupier of an adjoining premise objects to the proposed development. The evidence indicates that the relevant publicity required by Paragraph A.4(5) was undertaken by the Council, with no objections being received. Accordingly, prior approval is not required, and I am not required to assess the proposal further in this respect.
16. The Council is satisfied that the proposed development would not fail the limitations imposed by any other provision of Class A, aside from the instances I have already considered above, and there is no substantive evidence before me that would lead me to reach a different conclusion.

Conclusion

17. For the reasons given above, I conclude that the proposed development would constitute permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for which prior approval is not required. Therefore, the appeal is allowed.

C Harding

INSPECTOR