The Planning Inspectorate

Appeal Decision

Site visit made on 13 February 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/N5660/D/22/3303123
47 Tankerville Road, London SW16 5LW

- 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 appeal is made by Mr Kohn against the decision of the Council of the London Borough of Lambeth.
- The application Ref 22/01840/PDE, dated 19 May 2022, was refused by notice dated 27 June 2022.
- The development proposed is a single storey rear extension.

Decision

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a single storey rear extension in accordance with the terms of the application Ref 22/01840/PDE, dated 19 May 2022, and the plans submitted with it.

Applications for costs

2. An application for costs was made by Mr Kohn against the Council of the London Borough of Lambeth. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the proposal would be granted planning permission by Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Reasons

4. The appeal property is a two storey semi-detached dwelling. The proposal would comprise two single storey extensions to the rear of the property. The larger one would extend the depth of the existing single storey rear extension to give a total projection of six metres. The smaller extension would infill the space between the existing two storey rear projection and the boundary of the property and would extend outwards by just over 3.5 metres.

5. 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,

improvement or other alteration of a dwellinghouse subject to limitations and conditions.

6. The only part of Class A in dispute in this appeal is compliance with paragraphs A.1.(j)(iii) and A.1(ja). Paragraph A.1(j)(iii) states 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 would have a width greater than half the width of the original dwellinghouse. Paragraph A.1(ja) states that development is not permitted by Class A if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j).

7. The existing two storey rear projection ends in a three sided bay window feature over both storeys. In my view, this two storey projecting bay feature is more than a small decorative or architectural detail. It adds to the floor space and is quite a substantial feature over two storeys. The projecting bay feature comprises three elevations. The central elevation is clearly rear facing. However, the two elevations either side of this are at an angle to both the rear and side elevations of the dwelling.

8. The Department for Communities and Local Government Permitted development rights for householders Technical Guidance, 2019 (the Technical Guidance) states that a wall forming a side elevation will be any that cannot be identified as being a front wall or a rear wall. The Technical Guidance goes on to state that houses will often have more than two side elevation walls.

9. I am not able to identify the two angled elevations of the projecting bay feature as front or rear walls. I acknowledge that they are not entirely side facing, but as a matter of fact and degree I find that they are walls forming a side elevation. While these side elevation walls are narrow, the Technical Guidance does not advise that there is a minimum depth when considering whether or not a wall forms a side elevation.

10. I note the appeal decision cited[1] by the appellant where it was concluded that a bay window did not come within the definition of a wall forming a side elevation. However, as no details of this case are before me, a full and detailed comparison between this development and the case before me cannot be drawn. In any event, I have formed my own view about what constitutes a side elevation to the appeal property based on the existing site conditions.

11. There is no clear evidence before me to indicate that the existing two storey rear projection which ends in the projecting bay feature is not part of the original dwellinghouse.

12. On this basis, I am satisfied that the provisions of paragraph A.1(j)(iii) would apply to the proposal.

13. The Council's position is that when both proposed extensions are assessed together, they would have a width greater than half the width of the original dwellinghouse. As such, the proposal would not comply with paragraph A.1(j)(iii).

[1] Appeal reference APP/B1930/X/10/2133000

14. The Technical Guidance defines the enlarged part of the house as '*the enlargement which is proposed to be carried out under Class A*'. In my view, the terminology used in the Technical Guidance means that each enlargement should be assessed separately. On this basis, the two proposed extensions should be considered as two separate enlargements. Taken separately, neither proposed extension would have a width greater than half the width of the original dwellinghouse.

15. Paragraph A.1(ja) requires extensions which join each other to be considered together. The Technical Guidance outlines that under paragraph A.1(ja), the size of the total enlargement (being the proposed extension together with the previous extension to which it will be joined) will be taken into account. The two proposed extensions would not join each other. While the larger of the two would be joined to an existing extension, the total enlargement would not have a width greater than half the width of the original house.

16. Accordingly, I conclude that the proposal would accord with both paragraphs A.1(j)(iii) and A.1(ja) of Schedule 2, Part 1, Class A of the GPDO.

17. The application was made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) of Part 1, Class A, but is allowed by paragraph A.1(g). In such cases, paragraph A.4(7) provides 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.

18. Given the proposed design, the screening effect of the existing boundary treatments, and separation distances, there would be no unacceptable loss of privacy or unacceptable noise or light pollution.

19. The larger extension may be visible to occupiers of 45 Tankerville Road and there may be a slight reduction in light to this property at certain times of day given its orientation. Nonetheless, given the relatively modest flat-roofed single storey height, there would not be an unacceptable impact on the living conditions of occupiers due to a loss of light or overbearing effect.

20. The smaller of the two extensions would be close to the boundary with the adjoining property at no. 49 which has a window/door on its rear elevation close to the boundary. The main outlook from this window/door is to the rear of the property. Although the extension would be visible in peripheral views, it would not be overbearing given its relatively modest height and depth, and outlook would not be unreasonably affected. For the same reason and given its orientation, there would not be an unacceptable loss of light.

21. Consequently, I conclude that the proposal would be acceptable with regard to its impact on the amenity of adjoining premises.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

F Wilkinson

INSPECTOR