



Appeal Decision

Site visit made on 16 January 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/D5120/D/22/3294575

8 Chyngton Close, Sidcup DA15 7HS

- 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 (as amended).
 - The appeal is made by Mr Freddie Glebocki against the decision of London Borough of Bexley.
 - The application Ref 22/00093/GPDE, dated 13 January 2022, was refused by notice dated 22 February 2022. The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the proposal would be permitted development as provided for by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter "the GPDO").

Reasons

3. The GPDO grants planning permission for the enlargement, improvement or other alteration of a dwelling house under Schedule 2, Part 1, Class A, subject to limitations and conditions set out in paragraphs A.1 to A.4. However, Article 3(4) says that nothing in the GPDO "permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act¹ otherwise than by this Order".
4. The appeal property was built following a grant of planning permission in 1967 for the "construction of new cul-de-sac and erection of 5 pairs of semi-detached houses and garages"² ("the original planning permission"). As reproduced in the Council's officer report for the prior approval application, Condition 3 ("the original condition") imposed on that permission states that:

"...no permanent development, whether permitted by the Town and Country Planning General Development Order 1963, or not shall be carried out on the land (other than the creation of a private garage or garages) or in such a position to precludes vehicular access to this reserved parking space"

¹ The Town and Country Planning Act 1990

² LPA Ref: 67/1077/1

5. The appeal property is a two-storey semi-detached house, and Chyngton Close is a short cul-de-sac of similar dwellings. No 8 faces on to the turning head within the close, and is set back from the neighbouring house No 9. A shared driveway runs between Nos 8 and 9; this is splayed at the back of the houses to give access to two separate garages. The appellant has sought prior approval for a single-storey rear extension, which would extend across the full width of the existing house and would be approximately 4m deep.
6. The proposed extension would obstruct what is currently the splayed part of the rear driveway, and a fence and gate would close the remaining gap between the new extension and the side of No 9's garage. The development would therefore make it impossible for a car either to be driven into the garage, or parked in the space in front of it. The appellant has emphasised that the wording of the relevant condition refers to *vehicular* access, and drawn my attention to a broad Oxford Dictionary definition of "vehicle" as "a thing that is used for transporting people or goods from one place to another" which may include a motorbike or a mobility scooter; it is argued that "the development as proposed would be fully accessible by a motor-bike or mobility scooter".
7. The evidence which has been put before me does not include complete details of the original planning permission; I have not been provided with the original site plans showing the "reserved parking space" to which Condition 3 refers. Indeed, the wording which I have quoted in paragraph 4 may not be the original condition in full. However, there is no dispute that the condition applies to the appeal property, and a common-sense interpretation of the evidence suggests that the "reserved parking space" can only mean the garage, or at very least the area of ground on which it stands, and that this was intended to accommodate a car. Notwithstanding the appellant's suggestion that the development would ensure that the "reserved parking space" would remain accessible for other, smaller, types of vehicle (which, given the apparent narrowness of the proposed gate is doubtful in any event), I also infer that the original condition was intended to maintain access to that space for a car. The appeal scheme would thus prevent vehicular access to the "reserved parking space", and the removal of permitted development rights set out in the original condition therefore takes effect.
8. The appellant states that the existing garage is around 2.3m wide, that it would not therefore meet current standards for garage widths, and indeed that it would be impossible to park a modern car within it and for a driver also to be able to get into or out of the vehicle. It was suggested that none of the other garages within the street is used for car parking, but for various storage purposes. The appellant also stated that, following the grant of a lawful development certificate for a parking area within the front garden of No 8³ (which had not been constructed at the time of my site visit, but was "to begin imminently") there would be space elsewhere on the site to park a car. I have no reason to dispute any of these assertions, but in the context of this appeal they do not (individually or collectively) negate the enduring effect of the original condition's removing of permitted development rights. Similarly, the fact that there were no objections from neighbours does not carry weight in favour of the appeal scheme.

³ LPA Ref: 21/02299/LDCP

9. Nothing in my decision would prevent the appellant applying for planning permission for the same development as has been proposed. In those circumstances the Council would have to fully consider the planning merits of the scheme, including the suitability of the garage for parking a modern vehicle, and the availability of alternative car parking spaces. However, in the light of my findings in this appeal it is not necessary, nor would it be appropriate, for me to address those matters in this decision.

Conclusion

10. For the reasons given above, I conclude that Condition 3 of the original planning permission has removed the permitted development right which the appellant has sought to use in this case. As a result, the proposal would not be permitted development as provided for by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
11. The appeal is therefore dismissed.

M Cryan

Inspector