



## Appeal Decision

Site visit made on 10 March 2023

**by JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> March 2023**

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### **Appeal Ref: APP/A5270/D/22/3303948**

### **241 Argyle Road, Ealing W13 0AY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Mr Kaveh Josefi against the decision of London Borough of Ealing.
  - The application Ref 221867PALHE, dated 3 May 2022, was refused by notice dated 13 June 2022.
  - The development proposed is a single storey rear extension, 6m in length and 3m in height.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue in this case is whether the proposal constitutes development permitted under Schedule 2, Part 1, Class A of the *Town and Country Planning (General Permitted Development)(England) Order 2015* (the GPDO).

### **Reasons**

3. The above class in the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse without the need to seek specific planning permission from the Local Planning Authority beforehand. However, it lays down various conditions that apply, one of which states that, for an extension of the type before me, the development must not begin before the receipt of a written notice either giving prior approval or saying such approval is not required.
4. When I visited, a rear extension had been built. Although I did not measure it, it appeared similar in size and siting to the scheme subject of this appeal. If this was in fact the appeal scheme, then the works had been undertaken before the receipt of a notice saying prior approval is either not required or is given. Therefore, they cannot now be given Prior Approval.
5. However, if what is before me to consider under this appeal is not what has been built, Schedule 2, Part 1, Class A of the GPDO gives a number of criteria where the enlargement, improvement or other alteration of a dwellinghouse would not be permitted under that class. Of these, the only one of contention in this case is criterion (j), which states

*the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—*

*(iii) have a width greater than half the width of the original dwellinghouse.*

6. No 241 is one of a row of semi-detached dwellings that I understand were all built to the same design. This took the form of each house having a broadly rectangular footprint, with, on the rear, a bay window and a small projecting element (the projecting element). This arrangement is apparent at the other houses in the row

that have not been subsequently altered. At the appeal property the bay window had at some point in the past been removed and the rear elevation it occupied had been extended out the same distance as the projecting element. The scheme before me is to demolish both the projecting element and the bay window extension, and extend out by 6m from the principal rear wall.

7. Guidance on criterion (j) in the Government's advice in *Permitted development rights for householders Technical Guidance* (the Technical Guidance) says

*'A wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall...Where an extension is beyond any side wall, the restrictions in (j) will apply'.*

This is accompanied by an illustration showing a house with rear elements of 2 different lengths, each of which is said to have walls forming a side elevation.

8. Having regard to this Technical Guidance, the elevation of the projecting element that faces towards the adjoining neighbour cannot be identified as either a front wall or a rear one. Therefore, although of limited length, it is nonetheless sufficient to constitute a '*side elevation*' for the purposes of criterion (j). As such, given the extension would extend beyond this side elevation towards the adjoining property and would have a width greater than half the width of the original dwellinghouse, the development is not permitted under Schedule 2, Part 1, Class A of the GPDO.
9. The appellant considered the works were sustainable and would improve the quality of accommodation at the property. However, the planning merits of the scheme do not form part of assessing if it falls under Schedule 2, Part 1, Class A of the GPDO. Rather, this proposal has been considered against the very specific criteria that inform whether it is in fact development that is within the precise confines of what is permitted by the GPDO. If it falls outside of those criteria and so cannot be given prior approval, it does not automatically mean that any subsequent application for planning permission for the works would not be granted. Rather, if and when such an application was submitted, it would be for the Local Planning Authority to assess whether or not to grant it planning permission, having regard to the development plan, the planning merits, and all other material considerations relevant to the case.
10. He also referred to other extensions nearby that he considered to be similar, but, while I have noted the decisions submitted relating to some of them, my knowledge of the circumstances of those cases is limited. They might have been built without planning permission, could have been at properties with different original arrangements or could have been constructed after the grant of a specific application for planning permission. In any event their presence does not offer a justification for me to interpret the precise criteria of the GPDO in a different way.

## **Conclusion**

11. Whether the appeal scheme has in fact already been built or whether what is before me is different to what is now on site, I conclude the appeal is dismissed.

*JP Sargent*

INSPECTOR