



Appeal Decision

Site visit made on 7 March 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/N0410/W/22/3298127

36 Lower Road, Higher Denham, Denham UB9 5EB

- 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 Rocky Reshma against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/22/0183/PNE, dated 17 January 2022, was refused by notice dated 24 February 2022.
 - The development proposed is a single storey rear extension (depth extending from the original rear wall of 7.98 metres, maximum height 3.4 metres, eaves height 2.9 metres).
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Decision

1. The appeal is allowed and prior 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) (the GPDO) for a single storey rear extension (depth extending from the original rear wall of 7.98 metres, maximum height 3.4 metres, eaves height 2.9 metres), at 36 Lower Road, Higher Denham, Denham UB9 5EB in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO through application ref:PL/22/0183/PNE, dated 17 January 2022, subject to the standard conditions laid out at paragraphs A.3 and A.4 of Schedule 2, Part 1 of the GPDO.

Preliminary Matters

2. The description used by the Council differs from that used by the appellant. However, as it concisely reflects the development proposed, including the dimensions indicated within the submitted application form, I have also used it except for wording that is not development.
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 proposed development would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The original dwelling has been extended with a short rear extension which at some point has been linked to the setback garage on the eastern side of the plot. The proposal would see the existing rear extension and link to the garage demolished.
7. The Council have raised no objection to the proposal not complying with criteria A.1(e) to (i) of Part 1, Class A. However, the Council considers that the gap to be retained between the proposed rear extension and the existing garage would be so small that it would be *de minimis* and constitute a side wall. Thus the development would be contrary to Paragraph A.1(j)(iii) and thereby by A.1(ja).
8. The rear extension, as shown on the plans provided, would not project beyond a wall forming a side elevation of the original dwellinghouse. Although the arrangement of the proposed extension and the garage would be close, there would still remain a minimum gap of 0.3m between the buildings.
9. The Council state that the gap to be provided serves no design or practical purpose. However, from my observations on site, the extension would be, albeit longer and wider, positioned as close to the garage as the existing rear extension to be demolished. It is my view that the most practical solution without having to demolish a section of the garage or inset the rear extension would be to position the proposed extension in this location. This design would also serve to ensure the appearance of two separate forms of development.
10. Accordingly, I find that, as a matter of fact and degree, a gap of 0.3m would be sufficient to ensure the proposal possesses the characteristics and visual appearance of a rear extension and detached garage. Therefore, it does not constitute a side wall for the purposes of the GPDO.
11. The Council have provided me with appeal decisions¹ on *de minimis* gaps. Whilst, I do not have the full details of these decisions, I note the Inspectors' comment that the proposals sought to circumvent the limitations of the GPDO to achieve a second rear extension. These examples are, therefore, materially different as the gap, in this instance, would relate to a detached garage. In any event, I have found that the proposed gap would serve a purpose for the reasons set out.
12. As a result, I find that the proposed development would not extend beyond a wall forming a side elevation of the original dwellinghouse. It would therefore be permitted development within the terms of Schedule 2, Part 1, Class A of the GPDO. The Officer Report confirms that no objections were received from neighbouring occupiers and so prior approval is not required.

¹ APP/M4320/X/17/3172923, APP/M4320/W/17/3178679 and APP/Y1945/X/16/3151883

Other Matters

13. I have had regard to the Permitted Development Rights for Householders: Technical Guidance. I note that it is an aid to the interpretation and application of the Order and so is not definitive. In this particular instance, I do not find that there is anything in the guidance which leads me to alter my conclusion.
14. The Council have identified, there are some scaling issues on the plans provided. However, the plans are sufficiently detailed to comply with paragraph A.4.(2)(a) of Part 1, Class A of the GPDO. Should, the development not be built in accordance with the approved plans or the development fails to maintain a gap through the connection of gutters etc., then the Council could take appropriate action.
15. I note the Council's concerns about access to the garage. From my observations, the garage would still be accessible from the rear garden. Should planning permission be required for any further external alterations to the garage, this would be subject to a separate planning application.

Conclusion

16. 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.

A Hickey

INSPECTOR