



Appeal Decision

Site visit made on 27 June 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal Ref: APP/U5930/W/23/3314029

18 Sophia Road, Leyton, London E10 5AX

- 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 Aiyaz Sadiq against the decision of Waltham Forest London Borough Council.
 - The application Ref 222873, dated 4 October 2022, was refused by notice dated 15 November 2022.
 - The development proposed is erection of single storey rear extension.
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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) for erection of single storey rear extension at 18 Sophia Road, Leyton, London E10 5AX in accordance with the application Ref 222873, made on 4 October 2022, and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Preliminary Matters

2. The description of development given in the Council's decision notice and that given in Part E of the appeal form differs from that given in the prior approval application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form in my formal decision and in the banner heading above since this adequately describes the proposal.
3. 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 of a dwellinghouse subject to specified 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 an application where it considers that the proposed development does not comply with the relevant criteria so as to be permitted development. That occurred in this case.

Main Issues

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

Reasons

6. The Council consider that a flat-roofed two-storey projection to the rear of this end terraced house is not part of the original dwelling and therefore the proposal exceeds permitted development limits. The appellant claims the projection in dispute was built as part of the original dwelling and the previous owner confirms that is the case. The Council's Appeal Statement indicates that approval was given for the erection of a dwellinghouse at the appeal site in 1987 (Application Ref 871413). However, no further details about that decision have been provided.
7. From my observations, it was apparent to me that the two-storey projection was constructed in identical bricks to the remainder of the house. The appeal property appears to be a more modern addition at the end of the street, albeit that the facing materials, simple architectural detailing, and fenestration draws some influence from the older, more intricately detailed houses opposite and nearby. I have seen no evidence to substantiate the Council's position regarding the existing rear projection and, from what I saw on site, although it may appear to be an unusual form of development, I am satisfied that the two-storey projection to the rear forms part of the original dwellinghouse.
8. The Department for Communities and Local Government Permitted development rights for householders Technical Guidance, 2019 (the Technical Guidance) states that: *'Where the original rear wall of a house is stepped, then each of these walls will form 'the rear wall of the original dwellinghouse'. In such cases, the limits on extensions apply to any of the rear walls being extended beyond.'*
9. A diagram in the Technical Guidance provides an example of extensions to a dwelling with stepped rear walls which is relevant to the case before me. Although this cannot be determinative, in the sense that it is not law but guidance, the document provides an explanation of how the rules on permitted development for householders should be applied.
10. The proposal comprises two separate elements which, due to the stepped layout, would project beyond separate rear walls of the original dwellinghouse. Both would be within the height and projection limitations provided in the GPDO. Consequently, the proposal would be permitted development within the provisions of Schedule 2, Part 1, Class A of the GPDO. No objections were received from neighbouring occupiers, therefore prior approval is not required.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed, and prior approval is not required.

David English

INSPECTOR