



Appeal Decision

Site visit made on 14 February 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/Z5630/D/23/3330693

151 Barnfield Avenue, Kingston Upon Thames KT2 5RQ

- 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, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr R Arezina against the decision of the Royal Borough of Kingston Upon Thames.
 - The application ref 23/01752/PAEXT, dated 28 June 2023, was refused by notice dated 9 August 2023.
 - The development proposed is single storey rear extension 5.0M long by 5.5M wide, render finish to match existing, bifold doors to rear elevation, heights not to exceed 3.0m.
-

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, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for development described as single storey rear extension 5.0M long by 5.5M wide, render finish to match existing, bifold doors to rear elevation, heights not to exceed 3.0m at 151 Barnfield Avenue, Kingston Upon Thames KT2 5RQ in accordance with the application ref 23/01752/PAEXT, dated 28 June 2023, 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 above description of development is taken from the application form. It is referred to differently elsewhere, but as I can see no agreement between the main parties, I have used the description as set out on the application form.
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 (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) subject to Part 1, paragraph A.4(3) which provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions applicable to permitted development.

Main Issue

5. The main issue is whether the proposal would constitute permitted development under Schedule 2, Part 1, Class A of the GPDO, with particular regard to the terms of paragraph A.1(j).

Reasons

6. The appeal property is a two storey terraced house. The original rear wall of the property has a two storey projecting bay window which extends from the ground level to first floor level. Although it has been surrounded by an existing single storey rear extension the ground floor part of the bay window remains in situ internally. The main parties agree that it is an original feature of the property.
7. Paragraph A.1(j) of Class A of the GPDO outlines that development is not permitted by Class A if, amongst other things, 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.
8. The Council state that the projecting bay window forms part of a side elevation of the original dwellinghouse, and, consequently, the extension would have a width greater than half the width of the original dwellinghouse. As a result, the Council consider the proposal would not constitute permitted development.
9. The Permitted development rights for householders - Technical Guidance (MHCLG, 2019) identifies that a side elevation will be any wall that cannot be identified as being a front wall or a rear wall. It also states that houses will often have more than two side elevation walls. However, what constitutes a side elevation on any dwellinghouse is a matter of planning judgement, on the facts of a particular case, and taking into account the advice in the Technical Guidance.
10. The bay at the appeal property is three sided and is predominantly glazed, with glazed sliding doors and window frame surrounds. The bay window's projection is less than 90 degrees to the flat section of the rear elevation, and from the submitted drawings, would not be greater than 45 degrees. Therefore, these parts of the bay are not angled more towards the sides of the property than the rear.
11. In my view the bay window is simply a detail of the rear wall of the original dwellinghouse. Its very small projection, which is no more than 0.3 metres and the shallow angle of the bay window's elevations are factors that I have taken into account in coming to this conclusion.
12. There will be cases where rear bays are of a scale and/or design that could support the interpretation of the Council, but in this case I find that the rear bay window in its entirety is most reasonably considered as being part of the rear wall of the house. Taking this approach, the proposal would not exceed the Class A limitations and hence would be development permitted by the GPDO.

Conditions

13. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4. This includes the

requirement for the exterior materials to be similar to those used in the construction of the exterior of the existing dwellinghouse and that the development is carried out in accordance with the details and plans submitted as part of the application to the local planning authority. In my view, no further conditions are necessary.

Conclusion

14. The appeal scheme would, on the basis of the above, comply with the relevant provisions of the legislation under which it should be considered. For that reason, the appeal should be allowed.

B Pattison

INSPECTOR