



Appeal Decision

Site visit made on 27 February 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/P4605/D/23/3328112

68 Josiah Rd, Birmingham B31 5DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Ronald Heffernan against the decision of Birmingham City Council.
 - The application Ref is 2023/03735/PA.
 - The development proposed is full width rear lounge/kitchen extension. 3 metres from original rear wall. Brick built shed constructed at rear of proposed extension. 2.65 metres long x 0.87 metres wide. Fitted with flat roof not more than 2.5 metres in height. Maximum measurement from original rear wall will be 5.65 metres to outer skin of shed.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An extension was in the process of being built at the appeal property which is similar to the scheme before me but extends further along the side elevation of the house than is shown on the plan submitted with this appeal. I will deal with the implications of this later in this decision.
3. Since the application was determined, the National Planning Policy Framework (the Framework) was revised. Its content in respect of the main issue has not been materially altered. Therefore, in this instance it has not been necessary to consult the parties on the revisions to the Framework.

Main Issue

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

Reasons

5. Schedule 2, Part 1, Class A of the GPDO allows for the enlargement of a dwellinghouse subject to limitations and conditions. Class A.1 (j) states that the development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (i) exceed 4 metres in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse.

6. To comply with paragraph A.1(j)(iii) the extension should not extend beyond a wall forming the side elevation of the original dwellinghouse and then it could extend the full width of the original dwellinghouse. Alternatively, it could extend beyond a wall forming the side elevation of the original dwellinghouse but should not be wider than half the width of the original dwellinghouse. The submitted plan identifies that the extension would extend the full width of the dwellinghouse and then further beyond a wall forming a side elevation of the original dwellinghouse up to the shared boundary with the neighbouring property. Accordingly, the proposal would extend beyond a wall forming the side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse contrary to paragraph A.1(j)(iii).
7. Notwithstanding whether the proposal would comply with the other conditions of the GPDO the proposal would not comply with the requirements of Class A.1 (j)(iii) and cannot be permitted development under the above order. As the proposal does not constitute permitted development, I have no need to consider the amenity of the neighbours or to consider planning policy.

Other Matters

8. At the time of my site visit a side and rear extension was in the process of being built. The walls and the roof of the extension had been built and windows and doors had been inserted. It appeared to include development that would be included in the prior approval scheme but went beyond what is shown on the submitted plan. The as built extension extended along the side elevation towards the front of the house which is not shown on the plan submitted with this appeal. It is not clear to me what the status of the works completed to date is and whether this development is separate to this prior approval appeal. Accordingly, this would be a matter to be dealt with between the appellant and the council.

Conclusion

9. For the reasons set out above the proposal as specified would not be permitted development under Schedule 2, Part 1, Class A of the GPDO. Taking into account all other relevant matters, I therefore conclude that the appeal should be dismissed.

G Sibley

INSPECTOR