



Appeal Decision

Site visit made on 29 May 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/K2230/D/23/3335071

61 Milroy Avenue, Northfleet, Gravesend, Kent DA11 7AZ

- 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 Mr Kamaljit Singh against the decision of Gravesham Borough Council.
 - The application Ref is 20230951.
 - The development proposed is a single storey ground floor rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 limitations and conditions.
3. 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 developer 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

4. The main issue is whether the proposed extension would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.

Reasons

5. Paragraph A.1 (j)(iii) of Article 3, Schedule 2, Part 1, Class A of the GPDO specifies that 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 have a width greater than half the width of the original dwellinghouse.

6. The proposed extension would span the full width of the original dwellinghouse and would extend beyond the side elevation of the outrigger, which formed part of the original dwellinghouse.
7. The GPDO does not include a provision which allows the decision maker to make a decision contrary to the Order, where material considerations indicate otherwise. As such, whether the demolition of the outrigger constitutes development, as defined by Section 55 of the Town and Country Planning Act 1990, does not alter my consideration of the proposal against the GPDO.
8. Five examples of single storey rear extensions where the Council either deemed prior approval was not required or granted prior approval, have been put before me. In each of those circumstances it is not clear from the evidence what section of those buildings formed part of the original dwellinghouse. Therefore, I have not been able to ascertain whether the proposed extensions would comply with the GPDO in those applications. In any event, the determination of prior approval applications for similar schemes would form a material consideration. As above, this would not alter my assessment of the proposal against the GPDO.
9. Whether the proposal complies with the limitation specified within paragraph A.1 (j)(iii) is a factual matter. As the proposed extension would span the full width of the original dwellinghouse and beyond its side elevation it would not comply with the specified limitation. Therefore, I conclude that the proposed extension would not be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.

Conclusion

10. For the reasons given above, I conclude the appeal should be dismissed.

J Hobbs

INSPECTOR