



Appeal Decision

Site visit made on 4 March 2024

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2024

Appeal Ref: APP/W2465/D/23/3332906

39 Lower Keyham Lane, LEICESTER, LE5 1FZ

- 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 Ebrahim Patel against the decision of Leicester City Council.
 - The application Ref is 20231690.
 - The development proposed is Prior Notification: Larger Home Extension: Single storey rear extension 4.18m to the rear and 3m wide, maximum height at 3m.
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Decision

1. The appeal is dismissed.

Costs

2. An application for costs was made by Mr Ebrahim Patel against Leicester City Council. This application will be the subject of a separate decision.

Main Issue

3. Whether the development would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

4. Where the enlarged part of the extension would extend beyond a wall forming a side elevation of the original dwellinghouse a proposal must meet all of the limitations in A.1(j)(i) to (iii), (ja) in order to constitute permitted development.
5. Paragraph (j) applies as the scheme would extend beyond a wall forming a side elevation of the original dwelling house. There is no dispute on parts (i) and (ii). The Councils refusal focussed on (iii) (ja).
6. These limitations state that an extension would not be permitted development where it would extend beyond the side wall of the original dwellinghouse and would have a greater width than half the width of the original dwellinghouse. The Technical Guidance indicates that a wall forming a side elevation will be any that cannot be identified as being a front wall or a rear wall. The side wall of the rear outrigger cannot be identified as a front or rear wall and therefore it is a side wall.
7. The side wall of the rear outrigger, on the ground floor, has been demolished as part of the works to the dwelling. The submitted plans show the previous

- extensions either side of the original dwelling. Nonetheless, the side wall of the outrigger still counts as part of the original dwellinghouse, even though it has been demolished. Therefore the key issue is whether the appeal scheme would have a total width that would be more than half the width of the original house.
8. The plans included in the Council's report show the dwelling as it stood on 1 July 1948. At this point in time the width of the dwelling was 7.9m. This excludes the garage which is shown to have been added after this date. As such to benefit from the permitted development rights under Part 1 Class A any addition should not be greater than 3.95m. However, whilst the appeal scheme alone would be 3.00m, there is also a requirement to consider the addition and any previous enlargements that it would be joined to. This is relevant in this case.
 9. There have been two enlargements to the original dwellings which are shown on the plans. Subsection (ja) notes that the enlarged part of the dwellinghouse must be considered together with any existing enlargements which, in this instance, includes these additions. Consequently, the enlarged part of the dwellinghouse, including the existing additions would extend beyond a side wall of the original dwellinghouse and is greater than half the width of the original dwellinghouse. This would be true even applying the best case for the appellant, that being the 5.3m width (B+C) shown on the plans which would exceed 3.95m.
 10. The combined extensions are single storey. Based on the available information the extensions do not appear to exceed 4 metres in height. Nevertheless, the development does not comply with the limitations set out in A.1 (j) (ja). Consequently, the extension extends beyond the side elevation of the rear outrigger and would have a greater width than half the width of the original dwellinghouse.
 11. Therefore the development does not constitute permitted development under Schedule 2, Part 1, Class A of the GPDO.

Other Matters

12. I note that no objections were received from neighbouring residents in relation to consultation on the prior approval application. However, the absence of objections does not have a bearing on whether the development amounts to permitted development, having regard to the findings above. It is clear that an application for planning permission would need to be made for the development.

Conclusion

13. Having regard to the above and all matters raised the appeal is dismissed.

D J Board

INSPECTOR