



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2024

Appeal Ref: APP/Z5630/X/24/3342983

8 Canbury Park Road, Kingston Upon Thames KT2 6JX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Neil Fuller against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application ref 24/00009/CPU, dated 2 January 2024, was refused by notice dated 27 February 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as the erection of infill extension under Permitted Development Rights Class A- enlargement, improvement or alteration (Side and rear Extensions).
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Decision

1. The appeal is dismissed.

Main Issue

2. Whether the proposed development complies with Conditions A.1(g) and A.1.(j)(iii), Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons for the Recommendation

3. The existing dwelling forms a two-storey terrace with a two-storey rear outrigger and single storey outrigger beyond that. Based on the 1932 area map and the similar form of the other dwellings comprising the terrace, the two-storey outrigger forms part of the original dwellinghouse.
4. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions. Paragraph A.1(g) permits the enlarged part of the dwellinghouse to extend beyond the rear wall of the original dwellinghouse by more than 4 metres and less than 8m if a detached house, or by more than 3m and less than 6m in any other case. However, in this instance Paragraph A.4 requires the developer to notify the Local Planning Authority as part of the formal Prior Approval process.
5. The proposed development would adjoin the existing two-storey outrigger, projecting beyond the rear wall of the main body of the dwellinghouse by approximately 4.2m. The proposal would therefore fall under development permitted by Paragraph A.1(g) and as such be subject to the Prior Approval process required by Paragraph A.4.

6. As the appellant has failed to notify the Local Planning Authority as part of the formal Prior Approval process, it fails to comply with Paragraph A.4 of the GPDO and thus the proposal would not be permitted development.
7. Development is not permitted by Schedule 2, Part 1, Class A, Paragraph A.1.(j)(iii) of the GPDO if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse. The Permitted Development Rights for Householders: Technical Guidance (2019) (the guidance) clarifies that the width of the original house should be calculated at its widest point.
8. As the proposal adjoins the two-storey outrigger, it would extend beyond a wall forming a side elevation of the original dwellinghouse and as such, subject to Paragraph A.1.(j)(iii). Whilst the proposal would involve the addition of a door within the rear elevation of the existing outrigger, this is an alteration to the existing dwelling and does not form part of the proposed extension in the context of the GPDO. Accordingly, the width of the proposal should be measured from the side elevation of the existing outrigger to which it adjoins.
9. The plans submitted with the appeal indicate that the proposal would be less than half the width of the original dwellinghouse measured at its widest point and would therefore comply with Paragraph A.1.(j)(iii).
10. In conclusion, whilst the proposal would comply with the Paragraphs A.1.(j)(iii) and A.1(g) of the GPDO, it would fail to comply with the Prior Approval process required by Paragraph A.4. As such, the proposal would not satisfy the criteria to be permitted development, as defined by the above part and class.

Other Matters

11. The guidance confirms that where a development forms both a side and rear extension, then the restrictions on extensions beyond rear walls and side walls will both apply. Whilst the illustration within the guidance depicts an extension projecting 6 metres beyond a rear wall, this would clearly be subject to Paragraph A.4 and the Prior Approval process.

Conclusion and Recommendation

12. For the reasons given above and on the evidence now available, the appeal should be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and my representative's report and, on that basis, I dismiss the appeal.

A U Ghafoor

INSPECTOR