
Appeal Decision

Site visit made on 11 November 2024

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/T5720/D/24/3344046

2 Rutland Close, Colliers Wood, Merton, London SW19 2EX

- 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 GPDO").
 - The appeal is made by Mr Hassan Karsan against the decision of the Council of the London Borough of Merton.
 - The application Ref is 24/P0244.
 - The development proposed is the erection of a single storey rear extension with the following dimensions: extends beyond the rear wall of the original dwellinghouse by 5.75m. The maximum height of the enlarged part of the dwellinghouse will be 2.65m. The height of the eaves of the enlarged part of the dwellinghouse will be 2.6m.
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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 GPDO for the erection of a single storey rear extension with the following dimensions: extends beyond the rear wall of the original dwellinghouse by 5.75m. The maximum height of the enlarged part of the dwellinghouse will be 2.65m. The height of the eaves of the enlarged part of the dwellinghouse will be 2.6m at 2 Rutland Close, Colliers Wood, Merton, London SW19 in accordance with the application 24/P0244 made on 25 January 2024, and the details submitted with it AR-PL-2000, AR-PL-2001, and AR-PL-2002, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Preliminary Matters

2. 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. 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 (LPA) may refuse the application where it considers that the proposal does not comply or that the developer has provided insufficient information to enable the LPA to establish whether the proposal complies with the conditions, limitations, or restrictions that are applicable to such permitted development. Paragraph A.4(7) to Part 1 requires the LPA to assess the proposal's impact on the amenity of all adjoining premises, taking into account any representations received.

Main Issues

3. The main issues are whether the proposal would be granted planning permission by Article 3(1), Schedule 2, Part 1, Class A of the GPDO, and the impact of the proposed development on the amenity of all adjoining properties.

Reasons

4. The Council contends that the proposal would not comply with condition A.1(b) of Class A, Part 1 of Schedule 2. Development is not permitted through this condition if, as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).
5. The term curtilage refers to land that serves the purpose of a building in some reasonably necessary or useful manner given the physical layout, use, and ownership. The Technical Guidance relating to permitted development rights for householders defines curtilage as 'land which forms part and parcel with the house. Usually, it is the area of land within which the house sits or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area'.
6. The land that has an intimate association with the appeal property extends to the front and rear of the dwelling. That land includes part of the shared access with 1 Rutland Close. Although the proposed extension would, in tandem with the previous rear extension, occupy nearly all of the curtilage to the rear of the dwelling, the proposal would not exceed 50% of the total area of curtilage when the ground area of the original dwellinghouse is discounted. Hence, as a matter of fact and degree, the proposal satisfies condition A.1(b) of Schedule 2, Part 1, Class A of the GPDO.
7. No 1 has a single storey rear extension of the same depth as the existing rear extension at No 2. The proposal would extend along the shared boundary, but the two good-sized openings in the ground floor rear elevation of No 1 would ensure the occupants of this property would maintain an acceptable standard of living bearing in mind the orientation of the dwelling.
8. The rear elevations of the terraced properties at 42, 44, 46, 48, 50 and 52 Marlborough Road back onto the appeal site's rear garden, flank elevation, or land to the front. I consider that due to the siting of these properties, their orientation, the scale of the development, and the intervening distance to the proposal, the occupants of these properties would not be adversely affected.
9. 1, 3, 5, and 7 Marlborough Close back onto the appeal property. The rearward projections of these properties contain ground and first floor openings facing the appeal property. Those on the first floor are doors. The other first floor openings are set back and/or do not directly face No 2. Given the external staircases in front of the ground floor rear facing rooms in Nos 1 to 7, the scale of the development, and the existing boundary treatment, the proposal would not harm to the living conditions of the occupants of these properties.
10. Due to the existing dwelling and siting of the proposed extension, the proposal would not cause any impact on the amenity of the occupants of 1 and 2 Rutland Road. Therefore, the proposal would not adversely impact the amenity of the occupants of all the adjoining premises.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Andrew McGlone

INSPECTOR