



Appeal Decision

Site visit made on 18 November 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/Z5630/D/24/3340199

13 Firdene, Tolworth, KT5 9QQ

- 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 and Mrs Krzysztof and Regina Stepniak against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/03133/PAEXT.
 - The development proposed is a single storey 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.

Main Issues

3. The main issue is whether the proposal would be permitted development.

Reasons

4. There is no dispute that the development would have a width greater than half the width of the original dwellinghouse. The main issue of contention is whether the proposal would extend beyond a wall forming a side elevation of the original dwellinghouse contrary to the limitation within A.1 (j)(iii) of the GPDO.
5. The appeal property has been previously extended at ground floor across the full width of the property. I have no substantive evidence before me to indicate the appearance of the rear elevation of the property prior to the extension being constructed. However, existing drawings do indicate the original rear building line was staggered at ground floor. The appellant has identified that the approximate depth of this feature is between 0.25m to 0.3m. Although it is recessed and covered by the first floor, the plans show a clear projection, and stepped rear original building line. I do not disagree that this is an architectural feature, and not a structural part of the dwelling, but this does not preclude it from also being side wall.

6. The appellant has supplied numerous appeal decisions of varying ages on this matter. In the Pondwicks Close appeal¹ the Inspector considered 'the nature, location and projection of a wall of similar depth did not constitute a wall forming a side elevation of the original dwelling. Like this appeal, this was not in situ although the submitted plans are not comprehensive. However, the Inspector was able to visit that property and referred to specific features, which are not evident from the information provided to me. I am therefore of the view that they had evidence or the benefit of first hand observation, which is not before me, to inform their view as a matter of fact and degree.
7. The wall in the Ullswater Road appeal² was also a very short section of wall that served only to link the different parts of the ground floor rear elevation and the Inspector also found as a matter of fact and degree that it formed part of the rear wall of the original dwelling. With the Hermitage Road appeal³ it is clear that the rear façade was in alignment at ground floor level across the rear of the property. The contested feature was set at height above this. In the Endellion appeal⁴ the wall in question was described as a shallow, two storey projection which was evidently intended to provide some articulation to the rear elevation.
8. With the dismissed Five Acres appeal⁵ the appellant has suggested that the whole geometry of the external envelope of the building and total scale and visibility of the of the upper storey needs to be considered, thus drawing a variance with this decision. However, that Inspector determined that appeal based on the lawfulness of the proposed development as required. The planning merits and matters such as design, scale and visibility are not referred to within the limitations of the GPDO. If I was to take this argument, all the above appeal properties appeared to be substantial dwellings. In the context of the scale of those dwellings, the side-walls referred to would be very minor features.
9. As such there are numerous appeals which support and conflict with the appellant's case, and I have carefully considered these. Some of them pre-date the current Permitted Development Rights for Householders - Technical Guidance (2019). However, as is explained in this document a wall forming a side elevation of a house is any wall which cannot be identified as a front wall or rear wall. This point is illustrated by a diagram in the Guidance showing a house with stepped rear projections, the side walls of which are labelled as walls forming a side elevation.
10. Although no longer in situ, and the projection was quite small, I am of the view that there was a short piece of wall which was not rear-facing. It is not a front wall and it is side-facing; so it has to be treated as a side elevation. The proposed extension would project beyond this side elevation and would have a width greater than half the width of the original house. All the facts in those appeals are very different from the situation in this appeal where I have found that the 0.3m is part of the ground floor element of a wall forming a side elevation of the dwellinghouse and ultimately, I have insufficient evidence of this wall to conclude otherwise.

¹ Appeal ref: APP/B1930/X/10/2133372

² Appeal Ref: APP/L5810/X/18/2180519

³ Appeal Ref: APP/L5810/X/18/3198886

⁴ Appeal Ref: APP/Y3615/X/16/3142651

⁵ Appeal Ref: APP/M3645/X/16/3154333

11. I do not see good reason to interpret the GPDO other than in accordance with the Guidance. In my opinion there is no base-line for side-wall depth and the GPDO and guidance as drafted does not provide for flexibility, it simply refers to a wall forming a side elevation.
12. Therefore, the proposed extension would extend beyond a side elevation of original house and would be more than half the width of the original dwellinghouse. The appeal scheme would, therefore, not comply with the limitations contained within paragraph A.1 (j)(iii) of the GPDO.
13. Paragraph A.3 (a) of the GPDO requires the materials used in any exterior are of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The host dwelling has a rendered ground floor appearance, and tile hanging on the upper floor. I find that the proposed render would be of a similar appearance to that used in the construction of the exterior of the existing dwellinghouse on its current extension. The proposal would therefore satisfy the relevant provision A.1(g) of the GPDO.
14. There is also a dispute over the depth of the extension. I consider that this falls within the remit of A.4 (3)(b) of the GPDO that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the limitations and conditions. Although the application form states that the depth of the development would be 6m, the proposed plans clearly show a depth of 5700mm from the original wall aligned with the first floor. However, as the recessed original rear elevation is set in around 0.3m the extension should not exceed 6m from this point. I therefore have no substantive evidence that the proposal exceeds the limitations and would comply with the provisions of A.4 (3)(b) of the GPDO.
15. The proposal would comply with the provisions of A.3 (a) and A.4 (3)(b) of the GPDO. However, I conclude that the extension would not accord with limitations of A.4 (J)(iii) of Part 1, Class A, Schedule 2 of the GPDO. Therefore, the development does not constitute permitted development.

Conclusion

16. For the reasons given above, I conclude that the appeal is dismissed.

K Williams

INSPECTOR