
Appeal Decision

Site visit made on 27 September 2016

by J C Clarke BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 October 2016

Appeal Ref: APP/T5150/D/16/3152820
60 Cranleigh Gardens, Harrow HA3 0UW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tahir Ali against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/1103, dated 9 March 2016, was refused by notice dated 26 April 2016.
 - The development proposed is a Single Storey Rear Extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (General Permitted Development)(England) Order 2015 (the 'GPDO') enables certain types of development (known as 'Permitted Development') to take place without the need for a specific planning permission from the local authority. Under Class A.1(g) of Schedule 2, Part 1 of the GPDO ('Schedule 2') a single storey rear extension extending up to 6 metres beyond the original rear wall of a semi-detached dwelling can constitute 'Permitted Development' until 30 May 2019. This is only the case however provided that it would satisfy all the limitations set out in Classes A.1(a) to (k) inclusive of Schedule 2.
 3. The Appellant submitted details of the appeal proposal to the Council, as he is required to do under paragraph A.4(2) of Schedule 2. The Council's decision to refuse the application was made on the basis that it did not consider that the proposal would comply with the limitations relating to this form of Permitted Development. The powers for refusing approval on this basis are provided by paragraph A.4(3) of Schedule 2. I have therefore determined this appeal on the basis that it relates to a refusal of approval under paragraph A.4(3) rather than a refusal of prior approval under paragraph A.4(7) of the GPDO.
 4. The provisions of the GPDO require me to assess the current appeal solely on the basis of the matters set out in Class A. I have determined the appeal accordingly.
-

Main Issue

5. The main issue is whether the proposed extension would constitute Permitted Development under Schedule 2, Part 1, Class A of the GPDO, with particular regard to whether it would extend beyond a wall forming a side elevation of the original dwellinghouse and thereby be subject to the criteria in paragraph A.1(j) of this Schedule.

Reasons

6. Under paragraph A.1(j) of Schedule 2 to the GPDO, a rear extension such as that proposed cannot be Permitted Development if it would '*...extend beyond a wall forming a side elevation of the original dwellinghouse...*' and would, amongst other criteria, '*...have a width which is greater than half the width of the original dwellinghouse...*'.
7. The appeal dwelling is a semi-detached house, the rear wall of which is interrupted by a 'stagger' which faces towards the side boundary with 62 Cranleigh Gardens. Whilst this stagger is only about 0.3 metre in depth it nevertheless separates the two sections of the rear facing wall of the dwelling.
8. The proposed extension would project to the rear of the main rear wall of the appeal dwelling. Whilst it would not extend beyond the main side elevation facing 62 Cranleigh Gardens it would extend in that direction beyond the 'stagger' in the rear wall referred to above. A fundamental question in the appeal is therefore whether the subsidiary side facing wall which interrupts the rear facing wall of the appeal dwelling is a wall forming a side elevation of the original dwellinghouse as referred to in paragraph A.1(j) of Schedule 2.
9. The Government's 'Permitted development for householders: Technical Guidance'¹ (the 'Technical Guidance') is not a statutory document but provides relevant guidance. This confirms, on page 23, that a wall forming a side elevation will be any wall that cannot be identified as being a front wall or a rear wall, and that houses will often have more than two side elevation walls. The diagram on that page confirms that subsidiary side facing walls along a rear elevation should be regarded as walls forming a side elevation in this context.
10. I acknowledge that the side facing wall formed by the stagger in the rear elevation of the appeal dwelling projects only a small distance and may have been built as a design feature. It is, however, an integral part of the main structure of the building and there is no evidence to suggest that it is not part of the original dwellinghouse. Furthermore, the GPDO does not set any lower size threshold below which a side facing wall will not be considered to be a wall forming a side elevation. The question of whether there is a side wall or not is a question of fact, applied to the words of the GPDO, rather than judgement.
11. I consider that, having regard to the relevant provisions of the GPDO, and despite the limited length of the side facing wall in question, the appeal proposal would extend beyond a wall forming a side elevation of the original dwellinghouse.

¹ 'Permitted development for householders: Technical Guidance', Department for Communities and Local Government, April 2016

12. Furthermore, the Technical Guidance also indicates, on pages 24 and 25, that where an extension projects beyond both a side and a rear elevation, the width of the extension is to be derived from its whole width, and not just for example the distance between the relevant original side wall of the dwelling and the side of the extension. Applying this guidance to the appeal proposal, the proposed extension has a width which is substantially greater than half the width of the dwellinghouse. This is consistent with the wording of the GPDO.
13. I have noted the other appeal decision for 49, Kendal Road referred to by the Appellant, and that the plans for that proposal indicate that a stagger existed in the original rear elevation of that building. However I also note that a pre-existing rear extension was already attached to that dwelling which may have influenced the Inspector's findings. Furthermore, the Council has referred to several appeal decisions in which Inspectors have come to a similar conclusion to myself with regard to the interpretation of paragraph A.1(j). I have, in any event, determined the appeal having regard to the specific circumstances of the appeal site and whether the proposal would comply with the limitations in the GPDO as explained in the April 2016 Technical Guidance.
14. I also note the Council's decision in relation to application 15/0374. However, whilst the decision notice relating to application 15/0374 indicates that prior approval was not required, informative 1 on that decision notice provided a reminder that rear extensions such as that proposed must comply with the limitations relating to 'Permitted Development' set by the GPDO².
15. I also acknowledge that no objections were received by the Council in response to consultation on the appeal proposal. However, this is not relevant to the question of whether the proposal satisfies paragraph A.1(j) of the GPDO.
16. For the reasons which are set out above the appeal proposal would not constitute Permitted Development, as it would exceed limitations set by paragraph A.1(j)(iii) of the GPDO. Consequently, it would comprise development for which an application for planning permission is required. An application for planning permission would be a matter for the Council to consider in the first instance and cannot be addressed under the Permitted Development or prior approval provisions set out in the GPDO.

Conclusion

17. For the reasons set out above, I dismiss the appeal.

Jonathan Clarke

INSPECTOR

² The Council's decision on application 15/0374 refers to the Town and Country Planning (General Permitted Development) Order, 1995 as amended which was in force at the time. This contained provisions relating to Permitted Development which are similar to those set out in Class A of Schedule 2 of the 2015 GPDO.