The Planning Inspectorate

Appeal Decision

by Paul Dignan MSc PhD

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

Decision date: 6 January 2017

Appeal Ref: APP/Y1945/X/16/3151883
26 Stanbury Avenue, Watford, Herts WD17 3HW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs Azad against the decision of Watford Borough Council.
- The application Ref 16/00254/LDC, dated 22 February 2016, was refused by notice dated 19 April 2016.
- 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 a single storey extension.

Decision

1. The appeal is dismissed.

Reasons

2. The appeal concerns a semi-detached dwellinghouse that has previously been extended to the side and rear. The proposed extension the subject of this appeal would be erected beside the existing rear and side extension, but leaving a gap of 50mm between them. Aside from this gap, the combined width of the side and rear extensions would be about 14.25m, whereas the original dwellinghouse is about 9m wide.

3. Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (which I will refer to as the GPDO) permits the enlargement of dwellinghouses, subject to limitations and conditions. GPDO limitation A.1(j)(iii) states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse. That would clearly be the case here provided that the proposed new extension is considered as part of the enlarged part of the dwellinghouse that includes the side and rear extensions.

4. The Government's guidance on permitted development rights, Permitted development rights for householders – Technical Guidance April 2016 (the Guidance), is of relevance. Page 27 of the Guidance provides an example where a side extension and a rear extension adjoin, and hence stand to be

considered together. The proposal closely resembles the example given at page 27 of the DCLG Guidance, the sole matter at issue being whether the extensions can, or should, be considered as adjoining for the purposes of the GPDO.

5. The Council has referred me to an appeal decision[1] where the Inspector found that a gap of 25mm was not material, but the appellant in this case believes that the circumstances are quite different and distinguishable. I disagree. In both cases it is quite clear that the retention of a gap that serves no obvious design or practical purpose between extensions is no more than a device to circumvent the limitations of the GPDO. The 50mm gap is *de minimus*, it serves no useful purpose whatsoever other than to artificially separate the elements of the extensions so as to try to invoke the GPDO provisions for building extensions that quite clearly go well beyond what the GPDO intends to exclude from detailed control. The fact that the roof form of the proposed extension would be no different to the existing , but that they would not be connected in any way, is put forward in support of the appellant's argument, but it simply underlines the artificiality of the proposal.

6. I consider that the gap between the proposed and existing buildings would not, as a matter of fact and degree, be material for the purposes of the interpretation of GPDO limitation A.1(j)(iii) in the light of the Guidance. I consider that the proposed extension would be part and parcel of the enlarged part of the dwellinghouse including the existing side and rear extensions, and accordingly that it would fail to comply with GPDO limitation A.1(j)(iii).

7. For these reasons, therefore, the proposal would not be development permitted by the GPDO and it follows that the Council's decision to refuse to grant an LDC was well founded. The appeal cannot therefore succeed, and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Paul Dignan

INSPECTOR

[1] Appeal APP/U2235/X/13/2195960