
Appeal Decision

Site visit made on 13 January 2017

by M Seaton DipTP MRTPI

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

Decision date: 27 January 2017

Appeal Ref: APP/Z5060/D/16/3156051
70 Hurstbourne Gardens , Barking, IG11 9UT

- 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.
 - The appeal is made by Mr Amir Ur Rehman against the decision of the London Borough of Barking & Dagenham.
 - The application Ref 16/00916/PRIOR6, dated 14 June 2016, was refused by notice dated 21 July 2016.
 - The development proposed is a single-storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application for prior approval of a proposed larger home extension appears to have been made under The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the GPDO 1995). This has been replaced by The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO), and I have considered the appeal on this basis. This is a technical point which does not affect the interests of any party.
3. The Council issued a notice dated 14 June 2016 in which it 'refused' prior approval for the scheme considering that the proposed extension would not fall within the parameters of permitted development as set out under Schedule 2, Part 1, Class A of the GPDO. Whilst I am mindful that the provisions of the Order also required the local planning authority to assess the proposed development on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received, as a consequence of this decision I shall first address the issue of whether the proposal should be regarded as permitted development.

Reasons

4. The appeal relates to a single-storey rear extension to a terraced dwelling in a predominantly residential area. The proposed development would comprise a single-storey rear extension extending 6 metres to the rear beyond the extent of the main rear elevation of the dwelling, with a small existing single-storey rear wing set on the boundary with No. 68 Hurstbourne Gardens being
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- demolished. The extension would have a flat roof with a height to eaves of 3 metres.
5. The Council's decision notice sets out the conclusion that the proposed extension would exceed the limitations set within paragraph A.1(j)iii of the GPDO. In this respect, the Council has cited that the proposed rear extension would extend beyond a wall forming a side elevation of the original dwellinghouse, possessing a width greater than half the width of the original dwellinghouse.
 6. On the basis of the evidence before me and my observations at the site visit, I am satisfied that the small rear wing forms part of the original dwelling in the context of the assessment against the term 'original' in the GPDO, and is sufficiently substantial to be regarded as part of the side elevations of the original dwelling. In this respect I have noted the Council's submissions regarding the interpretation of this aspect of the GPDO where a part of the dwelling is to be demolished, and the reference to a previous appeal decision ref. APP/B9506/X/15/3022061 and the generality of the findings in the case of *Arnold v Secretary of State for Communities and Local Government 2015 EWHC 1197 (Admin)*. In respect of this decision, I have specifically had regard to the conclusion that a wall forming a side elevation of the original dwellinghouse may logically also include a wall which was to be, or had already been demolished, and that the term 'original dwellinghouse' was intended to be a constant, and not just based upon the walls that were in situ at the time the development was carried out.
 7. I have carefully considered this matter in the context of the appeal site. On the basis of the submissions, and in the absence of any evidence to the contrary, I see no reason to disagree with the interpretation reached by the Inspector on the earlier appeal. As a consequence of my conclusions on the extent of the original dwellinghouse, the proposed full width extension 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. I am therefore satisfied that the full-width extension would not be permitted development under the terms of Part 1 Class A.1 (j) (iii) of the GPDO.
 8. Since the proposal would not be permitted development, it is not necessary to consider the effect on the amenity of the neighbouring occupiers in this case.
 9. For the reasons given above I conclude that the appeal should be dismissed.

M Seaton

INSPECTOR