

Appeal Decision

Site visit made on 2 May 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 17th May 2017

Appeal Ref: APP/T5150/D/17/3172354
137 Chatsworth Road, London NW2 5QT

- 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 Vekaria against the decision of the Council of the London Borough of Brent.
 - The application Ref 17/0341, dated 23 January 2017, was refused by notice dated 7 March 2017.
 - The development proposed is described as 'demolition of existing rear store and detached garage, and erection 6m single-storey rear extension to increase habitable space in the single dwellinghouse'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs made by Mr Vekaria against the Council of the London Borough of Brent is the subject of a separate Decision.

Preliminary Matters and Main Issues

3. The application which is the subject of this appeal was a notification under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) of the intention to use permitted development rights to build a single storey rear extension which would exceed the limits in paragraph A.1(f) but which, subject to the conditions set out in paragraph A.4, would be allowed by paragraph A.1(g) of the GPDO. The Council considered the proposal to be permitted development and notified adjoining occupiers. The adjoining occupier at 139 Chatsworth Road objected to the proposal and so, in accordance with paragraph A.4(7), the prior approval of the local planning authority was required as to the impact of the proposed development on the amenity of any adjoining premises. Accordingly, the Council considered the impact and refused to grant prior approval.
 4. Based on the above, the main issues are whether the proposal would constitute permitted development under Schedule 2, Part 1, Paragraph A.1 of the GPDO and, if so, the impact of the proposed development on the amenity of any adjoining premises.
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Reasons

5. The appeal property is a semi-detached dwelling and so, in accordance with Schedule 2, Part 1, Class A, paragraph A.1(g), development is not permitted if the enlarged part of the dwellinghouse would have a single storey and extend beyond the rear wall of the original dwellinghouse by more than 6 metres or exceed 4 metres in height. The appeal proposal would be 6 metres deep but would in part extend from a single storey projection located to the side of the 2 storey rear wing. The Site Location Plan (Drawing No 160301/00/P0) shows the appeal property with a staggered rear elevation and does not include the projection to the side of the rear wing. It would therefore appear that this existing projection is an extension and, as such, the total enlargement would extend beyond the rear wall of the original dwellinghouse by more than 6 metres. Accordingly, based on the evidence before me, it has not been demonstrated that the proposal would constitute permitted development under Schedule 2, Part 1, Paragraph A.1(g) of the GPDO.
6. Furthermore, in accordance with Schedule 2, Part 1, Class A, paragraph A.1(j), 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 exceed 4 metres in height, have more than a single storey, or have a width greater than half the width of the original dwellinghouse. The Permitted Development Rights for Householders: Technical Guidance (the Guidance) indicates that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. It goes on to state that houses will often have more than two side elevation walls and, by way of example, provides a diagram of a house with a staggered rear elevation and multiple side walls. The Guidance is clear that the restrictions in paragraph A.1(j) of the GPDO will apply where an extension is beyond any side wall. The A.1(j) test looks at the original dwellinghouse and so if part of the original dwellinghouse has been demolished it would still count.
7. The appeal property has a staggered rear elevation and a number of side elevations. The appeal proposal would extend beyond the side elevation of a small single storey projection to the rear of the 2 storey wing, and would be greater than half the width of the original dwellinghouse. This projection to the rear of the appeal property is shown on the Site Location Plan and is also a feature of neighbouring properties. It therefore appears that the proposed development would extend beyond a wall forming a side elevation of the original dwellinghouse. As such, based on the evidence before me, it has not been demonstrated that the appeal proposal would constitute permitted development under Schedule 2, Part 1, Paragraph A.1(j) of the GPDO.
8. In view of these findings, notwithstanding the Council's and appellant's differing views about the effect of the development on the amenity of the occupiers of adjoining premises I do not need to consider this issue.

Conclusion

9. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

CL Humphrey
INSPECTOR