
Appeal Decision

Site visit made on 21 June 2017

by Sarah Housden BA (Hons) BPI MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/T5150/D/17/3175589

83 Wyld Way, Wembley, Middlesex HA9 6PT

- 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 Mutiah Thavabalan against the decision of Brent Council.
 - The application Ref 17/0731 dated 17 February 2017, was refused by notice dated 29 March 2017.
 - The development proposed is 'single storey rear extension'.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a single storey rear extension at 83 Wyld Way, Wembley, Middlesex HA9 6PT in accordance with the details submitted pursuant to Schedule 2, Part 1, paragraph A.4 (2) of the GPDO subject to the standard conditions laid out in the GPDO and the following additional condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be constructed in the side (north and south) elevations of the extension hereby permitted.

Procedural Matter

2. The provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises – taking into account any representations received. My determination of this appeal has been made in the same manner.

Reasons

3. In the Council's view, the proposed extension does not constitute permitted development under Class A, Schedule 2, Part 1 of the GPDO because it falls within the definition of 'Development not permitted' under Paragraph A.1(i). Notwithstanding this, the Council accepted and determined the application for prior approval. If the proposal does not fall within the scope of the GPDO provisions for larger extensions, planning permission would be required for the development. I shall therefore address as a preliminary matter the issue of
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whether the proposal should be regarded as permitted development before considering the effect on the amenity of neighbours.

4. The Council indicates that the eaves height of the proposed extension would exceed 3 metres within 2 metres of the boundary of the dwellinghouse. Whilst the proposal has a flat roof with no obvious eaves line, the planning application form specifies an eaves height of 2.8 metres and an overall roof height of 3 metres. The proposed plans confirm these overall dimensions. Paragraph A.3(a) of the GPDO requires the use of materials similar to the exterior of the existing dwelling as a condition of development permitted under Class A. The fact that these details have not been specified as part of the planning application details does not mean that the development falls outside the scope of the provisions for the enlargement of a dwellinghouse set out in the GPDO.
5. Having regard to the above, I conclude that the proposed extension would fall within the scope of the permitted development right for larger extensions specified in Schedule 2, Part 1, paragraph A of the GPDO.
6. The conditions in the GPDO¹ also require that where any owner of an adjoining premises objects, prior approval as to the impact of the proposal on the amenity of all adjoining occupiers is necessary. In this case, objections have been received from the occupiers of Nos 81 and 85 Wyld Way (Nos 81 and 85).
7. The proposed extension would extend approximately 0.7 metres beyond the rear wall of the lean-to extension at No 85. Whilst it would be to the south of the common boundary, having regard to the short length of the proposed side wall and its single storey height I consider that it would not appear unduly overbearing or dominant when viewed from the rear garden or patio doors in the rear elevation of No 85. As such, the living conditions of its occupiers would not be materially harmed.
8. The proposed extension would extend approximately 3 metres alongside the common boundary with No 81 which is delineated by a 1.8 metre timber fence. It would be visible from the patio doors, glazed door and rear garden of No 81. However, the outlook from the rear patio doors including levels of daylight are likely to be already affected to a degree by the existing fence. Whilst the side wall of the extension would be visible above the fence, having regard to the flat roof design, single storey height and length, I consider that adequate levels of daylight to the patio doors and glazed door in the rear elevation of No 81 would be maintained. Due to its orientation, the rear habitable rooms and garden would also continue to receive adequate levels of sunlight.
9. Due to the limited length of the side wall of the proposed extension, the rear garden of No 81 would not be dominated or enclosed to an unacceptable degree. In my view, the proposed extension would not appear unduly dominant or overbearing and would not cause material harm to the living conditions of the occupiers of No 81.
10. However, a condition removing permitted development rights for the insertion of additional windows in the side walls of the extension is necessary to avoid harm to the living conditions of the occupiers of Nos 81 and 85 which could arise from overlooking.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1 Paragraph A.4

Other matters

11. Concerns were raised about the use of the existing outbuilding in the rear garden of the appeal property. However, as this does not form part of the proposed development before me, this is a matter for consideration by the local planning authority. The floor plans indicate that the proposed extension will accommodate extra kitchen/dining accommodation and there is nothing in the evidence to suggest that the number of people living at the property would change as a result of the proposed development. Concerns about the effect on property values and digital receivers are not planning considerations. Whilst construction operations would inevitably give rise to some noise and disturbance, this would only be for a temporary duration. Existing issues relating to noise and disturbance are again a matter for the Council to address.

Conclusion

12. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be allowed.
13. In granting this approval, the appellant should note that the GPDO requires at Paragraphs A.4 (13), (14) and (15) that the development shall be completed on or before 30th May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development, and the date of completion. The appellant is also reminded that the condition at Paragraph A.3(a) of the GPDO requires that the materials used for the extension must be of a similar appearance to the exterior of the main dwellinghouse.

Sarah Housden

INSPECTOR