The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2017

by Graeme Robbie BA(Hons) BPl MRTPI

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

Decision date: 14 July 2017

Appeal Ref: APP/T5150/D/17/3172928
42 East Court, Wembley, Middlesex HA0 3QL

- 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 Farra Gomez against the decision of the Council of the London Borough of Brent.
- The application Ref 17/0299, dated 7 December 2016, was refused by notice dated 23 February 2017.
- The development proposed is a single storey rear extension to come out 6M from rear wall.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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. However, in the Council's view, the proposed extension does not constitute permitted development under Schedule 2, Part 1, Class A of the GPDO because it falls within the definition of "development not permitted" under Paragraph A.1(j)(iii). It is therefore incumbent upon me to consider first, whether the proposal would exceed any of the limitations set out at paragraph A.1.

3. Although the Council's delegated officer report makes reference to the GPDO, and the assessment therein clearly refers to the relevant paragraphs of the GPDO, the decision notice refers to an earlier, and now superseded version[1], of the GPDO. However, I am satisfied that the Council have considered the application against the provisions of the current GPDO, and so too have I.

Reasons

4. Paragraph A.1(j) states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would; i) exceed 4 metres in height; ii) have more than a single storey; or, iii) have a width greater than half the width of the original dwellinghouse. The Council consider that the property features a two storey side outrigger extension, confusingly describing

[1] The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

it as an 'original side outrigger extension' in their delegated officer report, and as a 'two storey outrigger extension' in the decision notice. Either way, as the Council considered it to extend beyond the side wall of the property, and be greater than half the width of the dwellinghouse, they contend that the proposal cannot be permitted development.

5. In response, the appellant states that the property has not previously been extended at the side and that this part of the house currently is as it was originally constructed. However, the document, 'Permitted development rights for householders: Technical Guidance'[2] provides clarification on the definition of a side elevation of a house as being 'any wall that cannot be identified as being a front wall or a rear wall'. It goes on to say that houses will often have more than two side elevation walls. This section of the Guidance concludes that 'Where an extension is beyond **any** [*my emphasis*] side wall, the restrictions in (j) will apply.'

6. From my observations of the appeal property, I agree with the appellant's assertion that the property has not been extended at the side, and I saw nothing during my visit to the site that suggested that a two storey side outrigger extension was present. However, the side elevation of the appeal property steps outwards approximately two thirds of the way back along its depth, a feature that I noted was also present on the neighbouring property.

7. Applying the definition set out in the Guidance, the appeal property has two side elevations, the rear part of the side elevation being wider than that of the front part. The proposed rear extension would extend across the entire width of the rear elevation of No. 4. By virtue of the stepped elevation identified above, this would result in it extending beyond one of the side elevations of the host property. As such, and having regard to the definition set out in the Guidance, the proposal becomes subject to the restrictions set out at A.1(j)(i) to (iii).

8. It has not been suggested that the proposal would fail either A.1(j)(i) or (ii). I agree. However, as it would extend across the entire rear elevation of the property, thereby giving it a width greater than half that of the original dwellinghouse, it would fall foul of A.1(j)(iii). Thus, I agree that the proposal cannot be permitted development and conclude that this appeal should fail. An application for planning permission would therefore be required for the proposal in its current form.

9. I have noted that the height of the proposed extension is a matter of dispute between the parties. However, as it would not exceed the 4 metre height restriction imposed by A.1(g)(ii) this matter has not been determinative in this instance.

Conclusion

10. As the proposal does not constitute permitted development, there is no requirement for me to make a determination on the prior approval matters, and so I have not considered those matters any further. For the reasons set out therefore, I conclude that the appeal should be dismissed.

Graeme Robbie INSPECTOR

[2] Department for Communities and Local Government, April 2017