The Planning Inspectorate

Appeal Decision

Site visit made on 3 July 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/G5750/D/17/3174055
49 Lichfield Road, East Ham, London E6 3LQ

- 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 Nehal Shah against the decision of the Council of the London Borough of Newham.
- The application Ref 17/00672/PREHH, dated 24 February 2017, was refused by notice dated 6 April 2017.
- The development proposed is a single storey rear extension.

Decision

1. The appeal is allowed and prior approval is not required 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 49 Lichfield Road, East Ham, London E6 3LQ in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO.

Procedural Matter

2. The spelling of the appellant's name in the appeal form is different from that in the application form. I have adopted that used in the appeal form.

Main Issue

3. The main issue is whether the proposal is permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

4. Class A provides that the enlargement of a dwellinghouse is permitted development provided that it falls within the limitations in paragraph A.1. Until 30 May 2019 the enlargement of a dwelling is permitted under A.1 (g) provided that the enlarged part of the dwellinghouse would have a single storey, would not exceed 4 metres (m) in height and would not extend beyond the rear wall of the original dwelling by more than 6m. The proposal complies with those requirements.

5. Sub paragraph (j) states that such enlargement 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—

(i) exceed 4m in height,

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse.

6. The proposed extension would be attached to the side wall of the two storey outrigger. The presence of similar outriggers on the majority of the houses in the terrace suggests that this is an original feature. Hence, the proposal would extend beyond a side elevation to the original dwellinghouse. At 1.6m the width of the extension would be less than one third of the 5m width of the original house, as marked on the amended plan lodged with the appeal. It would, therefore, be less than half the width of the original dwellinghouse.

7. The previous edition of the Technical Guidance[1] advised that references within the GPDO to the "*enlarged part of the dwellinghouse*" include any previous enlargements of the original house either already built or for which planning permission or prior approval has been given. That interpretation was contradicted by the High Court in the Gary Hilton case in 2016[2] which held that the term should be taken only to mean the enlargement that is the subject of the application under consideration. The 2017 edition of the Technical Guidance has been amended accordingly.

8. The GPDO has subsequently been revised to include Paragraph A.1 (ja). This states that the enlargement of a dwelling is not permitted development if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j). That amendment applies only to applications made after 6 April 2017 and is not relevant to the current proposal. In any event, the proposed extension would be joined to the original outrigger, not the more recently constructed rear extension. Accordingly, I find that the proposed extension would comply with paragraph A.1 (j) (iii) and would constitute permitted development under Class A.

9. Paragraph A.4 (7) states that, where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises. The Council has carried out the necessary consultation and no objections have been received. I therefore find that prior approval is not required and, for the reasons set out above, conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR

[1] Department for Communities and Local Government: Permitted Development Rights for Householders Technical Guidance April 2016
[2] R (oao Hilton) v Secretary of State for Communities and Local Government (official Court transcript cites Secretary of State for Home Department) [2016] EWHC