
Appeal Decision

Site visit made on 7 June 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/N5090/D/17/3170532

125 Chase Way, Southgate, London NW14 5DY

- 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 Ms Loretta Maria Cocchi against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 17/0305/PNH, dated 16 December 2016, was refused by notice dated 1 February 2017.
 - The development proposed is a single storey rear extension with a proposed maximum depth of 6 metres from original rear wall, eaves height of 3 metres and maximum height of 4 metres.
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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) for a single storey rear extension with a proposed maximum depth of 6 metres from original rear wall, eaves height of 3 metres and maximum height of 4 metres at land at 125 Chase Way, Southgate, London NW14 5DY in accordance with the terms of the application Ref: 17/0305/PNH, dated 16 December 2016, and the plans submitted with it.

Procedural matter

2. The description used by the Council more accurately sets out what is proposed and so I have used this, rather than "6m rear extension (from the original rear wall)" as set out on the application form.

Main Issue

3. The main issue in this appeal is whether the proposed development is permitted under the terms of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO).

Reasons

4. Part 1, Class A of Schedule 2 to the GPDO grants planning permission for the enlargement, improvement or other alteration of a dwelling house subject to a number of exceptions set out in Paragraph A.1. Paragraph A.1(g) allows until

30 May 2019 for a single storey extension which does not extend beyond the rear wall of the original dwelling house by more than 8 metres in the case of a detached dwelling house, or 6 metres in the case of any other dwelling house, or exceed 4 metres in height. Paragraph A.1(j) allows for an extension beyond a wall forming a side elevation of the original dwelling provided that it does not exceed 4 metres in height, have more than a single storey, or have a width greater than half the width of the original dwelling house.

5. The Council consider that the proposal does not meet the terms of Paragraph A.1(j) of the GPDO as the proposed rear extension would adjoin an existing two storey bay window on the rear of the house. It is contended that the bay window comprises a side elevation of the house and that the proposed extension would have a width greater than half the width of the original dwelling house and, thus, is not permitted development.
6. The Council have referred to another appeal decision as authority for arriving at this conclusion but I have not been provided with a copy of this decision or any details of the proposal that it relates to. Nor is there any analysis of this scheme within the Council officer's report. In the absence of any evidence, I cannot tell whether the circumstances of that case are analogous to the case before me. In any event, I must determine the appeal case on its own merits.
7. The appellant argues that the bay window is a part of the rear elevation and that the proposal should properly be considered in terms of Paragraph A.1(g) of the GPDO. The Department of Communities and Local Government "Permitted Development Rights for Householders – Technical Guidance" (April 2017) (the Guidance) provides more detailed advice on the permitted development rights set out in Part 1 Class A. This states 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 also states that the rear wall or walls of a house will be those which are directly opposite the front of the house
8. It is therefore necessary to consider, in the light of the above, whether or not the angled side of the bay window should be considered as a side wall for the purposes of the GPDO. The bay window in the case before me is three sided, with the two shorter sides that project from the main wall of the house set at an angle. It projects approximately 1 metre from the main wall of the house and rises the full height of the house. The bay window is glazed to ground level. There is a solid section roughly halfway up the height of the bay and further glazing above, with a flat roof at the level of the eaves of the main roof. From my site visit, it would appear to be an original feature of the house given the presence of similar two storey bay windows on other houses in the street.
9. Having regard to the wording in the Guidance, the part of the house where the bay window in question is located is directly opposite the front elevation of the building and, consequently, could reasonably be concluded as being a rear wall in the generally understood sense. I also note the appellant's point that the definition of "principal elevation" in the Guidance regards bay window features as constituting part of the principal elevation. In the light of this, it seems logical to me that a bay window on any other elevation should be also considered as part of that elevation. In addition, given the substantially glazed nature and the limited projection of this particular bay window feature, it does not in fact possess enough of the characteristics of a wall to be properly considered as a side wall of the dwelling house. The appellant's argument that

the bay window is a part of the rear wall of the dwelling is a compelling one and, in the absence of any evidence to the contrary, one with which I agree. Consequently, the proposed development would not fall foul of Paragraph A.1(j) of the GPDO and has, instead, to be considered in the context of Paragraph A.1(g).

10. The appeal building is a terraced property and the proposed extension would not extend by more than 6 metres from the original rear wall of the house, nor would it exceed 4 metres in height. This does not exceed any of the limitations set out in Paragraph A.1(g). I therefore find that the proposed development would be permitted development within the terms of Part 1, Class A of Schedule 2 to the GPDO. No objections were received to the proposal from neighbouring occupiers and, therefore, prior approval is not required.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and that prior approval is not required. The Appellant should note that the GPDO requires at Paragraphs A4 (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.

John Dowsett

INSPECTOR