
Appeal Decision

Site visit made on 5 July, 2017

by G. Rollings, BA (Hons) MA(UD) MRTPI

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

Decision date: 9th August, 2017

Appeal Ref: APP/U5930/D/17/3174516

9 Acorn Close, Waltham Forest, London, E4 9DA

- 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 Mrs Soori Khoobyari against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref: 170167 dated 16 January, 2017 was refused by notice dated 14 February, 2017.
 - The development proposed is a single-storey ground floor rear extension with mono-pitched roof.
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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) under Article 3 and Schedule 2, Part 1, Paragraph A.4(12) 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.

Main Issues

3. The main issues are whether the proposed development is permitted development for which prior approval can be granted, and if so, whether it would raise any concerns in terms of its impact on the amenity of adjoining premises.

Reasons

4. The appeal site accommodates a two-storey, end-of-terrace building. The building has one front door, and appears as a dwelling/house when viewed from outside the site.
5. The Council recognises the building's accommodation as two separate flats, and last year issued a Certificate of Existing Lawful Use or Development¹ in which the upper floor was described as a self-contained flat. However, the appellant has advised that the building is actually a single, self-contained house, citing

¹ Council application reference number: 161371; date of decision: 31 May 2016.

the one land registry holding, and singular registrations for utilities and Council Tax, amongst other considerations. As such, the two main parties disagree on the current use of the building and whether it can be considered a dwelling/house within the terms of the GPDO, and thus whether it is eligible for the granting of prior approval for a proposed works.

6. The appeal plans, for both the existing and proposed internal building layouts, do not show a division of the building into two separate units. However, on my site visit to the property, I observed that despite the single front entrance to the house, the living accommodation on the upper floor was separate to the accommodation on the ground floor. The upper floor accommodation had its own door at the foot of the stairwell, which was closed with unopened mail stacked on the stair behind the door. During my inspection of the upper floor, I observed that it had its own kitchen, bathroom, bedroom and living facilities, all of which would support self-contained dwelling separate from the accommodation on the ground floor.
7. The GPDO interpretation of a flat is defined as: *"...a separate and self-contained set of premises constructed or adapted for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally."* Despite the building retaining some characteristics of a single house, as a matter of fact and degree I consider that the two floors are each its own independent units of accommodation, with no living facilities or rooms shared between them, other than the front entrance area. Accordingly, it appears to me that the Council's interpretation of the current lawful use of the property is the correct one, and that the building is presently used as two flats.
8. Prior approval under Schedule 2, Part 1, Paragraph A.4 of the GPDO applies only to dwelling/houses. Given that the GPDO's interpretation of a dwelling/house specifically excludes a building containing one or more flats, or a flat contained within such a building, I therefore conclude that the proposed development is not permitted development for which prior approval can be granted. As such, it is not necessary for me to consider whether there are additional concerns in terms of its impact on the amenity of adjoining premises.
9. Consequently, the proposal is development for which an application for planning permission is required. An application for planning permission would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO.

Conclusion

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

G Rollings

INSPECTOR