

Appeal Decision

Site visit made on 25 July 2017

by M Seaton DipTP MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/N5090/D/17/3173307

4 Walfield Avenue, London, N20 9PR

- 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 Anish Yadav against the decision of the London Borough of Barnet.
 - The application Ref 17/1271/PNH, dated 23 February 2017, was refused by notice dated 5 April 2017.
 - The development proposed is a single-storey rear extension with a proposed maximum depth of 4 metres measured from the original rear wall, eaves height of 3 metres and maximum height of 3 metres.
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Procedural Matter

1. 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.

Application for costs

2. An application for costs was made by Mr Anish Yadav against London Borough of Barnet. This application will be the subject of a separate Decision.

Decision

3. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for *a single-storey rear extension with a proposed maximum depth of 4 metres measured from the original rear wall, eaves height of 3 metres and maximum height of 3 metres*, at 4 Walfield Avenue, London, N20 9PR, in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A4 (2) of the GPDO.

Reasons

4. The appeal relates to a single-storey rear extension to a semi-detached dwelling in a predominantly residential area. The appeal property possesses an existing large rear lean-to extension, and a single-storey detached garage set to the rear of the dwelling on the boundary with No. 6 Walfield Avenue, with a reasonable sized rear garden beyond.
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5. The proposed development would comprise a single storey rear extension of 4 metres in length, extending across the full width of the rear elevation of the dwelling. The extension would possess both a height to eaves and maximum height of 3 metres. The submitted 1:1250 plan indicates the proposed extension as immediately abutting the existing single storey garage to the rear of the dwelling.
6. The Council has assessed the proposed extension against the provisions of Schedule 2, Part 1, Class A of the GPDO, and has concluded that in respect of the limitations of development allowed by paragraph A.1(g)(i) that the proposal would not be in compliance with the restrictions. In the Council's opinion, the proposed extension and existing garage would be considered as a single entity, and would cumulatively result in an enlargement of approximately 9.5 metres, exceeding the maximum 6 metre depth allowed by paragraph A.1(g)(i) for the enlarged part of the dwellinghouse.
7. In considering this matter, I am mindful that at the time of the determination of the application for prior approval, the Department for Communities and Local Government (DCLG) Permitted development rights for householders Technical Guidance (April 2016), advised the following definition of "Enlarged part of the house". Specifically, *the part(s) of a dwellinghouse comprising any enlargements of the original house, whether built under permitted development rights or following any application for planning permission, and whether the enlargement is undertaken on a single occasion or added incrementally.*
8. However, whilst I accept that the submitted 1:1250 plan shows the proposed extension and existing garage as adjoining, I differ from the Council's position in the interpretation of the GPDO. In particular, I am mindful that a garage when considered against the GPDO, would fall to be assessed in the context of *Class E – buildings etc incidental to the enjoyment of a dwellinghouse*, as it would relate to a building within the curtilage of the dwellinghouse, but not forming part of the dwellinghouse. In this respect, and with reference to the definition of "enlarged part of the house" within the DCLG Technical Guidance, I am satisfied that it would be reasonable to conclude that this must relate only to development within *Class A – enlargement, improvement or other alteration of a dwellinghouse*. So, at the time of the Council's decision, in accordance with the then extant GPDO and Technical Guidance, this would not therefore result in a situation whereby the cumulative length of the garage and proposed extension would fall to be assessed against paragraph A.1(g)(i).
9. I am mindful that since the Council's determination of the prior approval application, the position has now changed in respect of the GPDO as a consequence of *The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2017 S.I. No. 391*, coming into force on 6 April 2017, as well as an updated version of the Technical Guidance having been published on the same date to accompany the amended GPDO. However, I have had regard to the transitional and saving provisions within the amendment to the GPDO, which state that *the amendments made by article 3 of this Order* (in relation to the enlargement, improvement or other alteration of a dwellinghouse) *do not apply to — (a) development for which information was provided to the local planning authority under paragraph A.4(2) of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted*

Development) (England) Order 2015 before 6th April 2017. Therefore due to the submission and determination of the application for prior approval before this date, the updated GPDO and by extension revised Technical Guidance, are not relevant to the assessment of the appeal in this instance.

10. As a consequence, I am satisfied that the proposed extension is permitted development, and that the extension would accord with the limitations set within Schedule 2, Part 1, Class A, paragraph A.1 of the GPDO. Further to my conclusions above, I am mindful that as part of their determination process the Council consulted neighbouring occupiers, but that no representations were received. Therefore, paragraph A.4(7) of the GPDO is not engaged, and there is no requirement to assess the impact of the proposed development on the amenity of any adjoining premises.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and approval granted. In granting approval 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.

M Seaton

INSPECTOR