



Appeal Decision

Site visit made on 16 July 2019

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/M5450/X/19/3221168 85 Malvern Gardens, Harrow HA3 9PG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Bimal Chudasama against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4125/18, dated 5 September 2018, was refused by notice dated 5 November 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a single storey rear extension.
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Decision

1. I dismiss the appeal.

Appeal

2. The appeal property is a mid-terrace house. The proposal is for a 6m deep single storey extension at the rear of the house, part of which would replace what is described as a 'makeshift cover/conservatory'. Although the relevant dimension is not indicated on the application drawings, the plans show that the extension would be nearly as wide as the house itself.
3. Referring to the Council's reason for refusal, which cites limitation A.1 (j) (iii) to Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (GPDO), the appellant submits that there is no side extension at the property. This may be so, but as the appellant also notes, the original property is constructed in an 'L' shaped configuration. In common with the other houses in the terrace, there is a fairly narrow shallow 2-storey gabled projection at the rear of No.85. According to the appellant, this feature, which is on the south side of the house, extends outwards about 0.9m from the back wall of the main body of the original house.
4. I acknowledge that the degree of projection referred to is fairly modest and the wall in question is some distance away from the appeal property's boundary with No.87. Be that as it may, I am also mindful that the commentary on limitation A.1(j) in the Department's publication 'Permitted development rights

for householders - Technical Guidance'¹, and more particularly, the diagram on page 23, indicates that a wall such as the inner flank wall of the rear projection at No.85 constitutes a wall that forms a side elevation of the appeal property,

5. Bearing in mind the Technical Guidance, it is clear from the submitted plans that the additional works proposed would extend beyond a wall that forms a side elevation of the original house, namely the flank wall of the 2 storey rear projection. It is also apparent from the drawings that the extension would be a good deal wider than half the width of No.85. For these reasons, and notwithstanding the Notification of a proposed Larger House Extension made by the appellant, and the advice that he appears to have been given, the proposed extension would not be permitted development and so would not be lawful.
6. I appreciate that the decision in this instance could be seen to turn on something of a technicality. Nevertheless, for the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed single storey rear extension was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

D H Brier

Inspector

¹ Published by the Department of Communities and Local Government - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/606669/170405_Householder_Technical_Guidance__April_2017_FINAL.pdf