
Appeal Decision

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/M5450/X/18/3211709

1 Hunters Grove, Harrow HA3 9AB

- 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 Bhachu against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1126/18, dated 15 March 2018, was refused by notice dated 14 May 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 the erection of single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development proposed has previously been subject to a "prior approval" submission and the Council confirmed that prior approval was not required. Not all of the documents are before me and it is not for me to consider whether that submission was considered properly or not. It is for me to determine whether the decision subject of the appeal was well founded.

Reasons

3. This end of terrace dwelling has been the subject of previous extensions and it is now proposed to add an additional single storey extension at the rear. The proposed flat roofed addition would be added to the rear of an existing dining room and would be across most of the rear of the dwelling. It would be separated from an existing 2-storey side and rear extension by only 0.125m. The construction of the extension would require an internal re-arrangement of the dwelling and external alterations to the existing side and rear extension.
4. At the moment, the existing single storey dining room is joined to the 2-storey side and rear extension and the plans show that those parts of the dwelling are not separated internally. The proposal would require the separation of those parts of the existing building with the construction of new external, parallel walls with the 0.125m gap.
5. Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning

(General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for various developments involving the "enlargement, improvement or other alterations" of dwellinghouses. The only dispute between the parties is whether the extension would in effect be a part of the existing extension to the side and rear of the dwelling. If so, it would exceed the limitations within paragraph A.1(j) and also therefore A.1(ja) which state that development is not permitted by Class A if:

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would (i) exceed 4 metres in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse; or (ja) 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).

6. Technical Guidance¹ (the guidance) has been produced with the aim of helping homeowners understand how they can exercise their rights to carry out development under the provisions of the GPDO. On page 28 of the guidance there is an illustrated example that is similar to the current proposal which shows a staged development with a rear extension linking with an existing side extension. It is clear that the example scenario would not be permitted development as the extensions together would be more than half the width of the original dwelling. In the present case, the Council considers that the proposal would similarly form part of a side extension, would be more than 4m in height and would a greater width than half of the original dwellinghouse. The appellant suggests that this should not be the interpretation of the GPDO as there would be a gap of 0.125m between the proposed extension and the existing extension.
7. As I have described above, the proposed development would not simply be a matter of adding a new extension to the rear of the existing building. A significant degree of internal and external re-arrangement of the existing building would be required in order to incorporate the new addition. This would include substantial alterations to the existing 2 storey side and rear extension. The proposal cannot in my view be considered as a discrete element and must be considered as a whole under the provisions of the GPDO. As such, the total enlargement would exceed the limits set out in paragraph A.1(j)(i), (ii) and (iii). The modest gap alone would only give a very limited degree of separation. This would not lead to a separate development that could be considered to fall within the limitations of the GPDO.

Conclusion

8. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the description set out in the header to this decision, 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.

A Harwood

INSPECTOR

¹ Department for Communities and Local Government, Permitted development rights for householders, Technical Guidance, April 2017