
Appeal Decision

Site visit made on 18 September 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/N5090/D/19/3221915

35 Cherry Hill, Barnet EN5 1BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of The Town & Country Planning (General Permitted Development) Order 2015 (as amended) (hereafter 'Class A').
 - The appeal is made by Mr Nitin Thacker against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/7449/PNH, dated 13 December 2018, was refused by notice dated 24 January 2019.
 - The development proposed is a single storey rear extension with a proposed depth of 5 metres from original rear wall, eaves height of 3 metres and maximum height of 3.3 metres.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is that used by the Council, as no clear description is provided on the application.

Main Issue

3. The main issue is whether the proposed development would comply with the conditions, limitations or restrictions applicable to development permitted by Class A.

Reasons

4. The application was refused on the basis of non-compliance with the restriction set out in paragraph A.1(j)(iii) of Class A, as allowed by paragraph A.4(3)(a) of Class A. Paragraph A.1(j)(iii) of Class A states that development is not permitted where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse.
5. The original dwellinghouse is the building as it existed on 1 July 1948. In this regard the parties are agreed that a small single storey outrigger which projects from main rear wall of the dwelling forms part of the original dwellinghouse. This outrigger extends across less than half of the rear elevation.

6. As stated within the Permitted Development Rights for Householders; Technical Guidance 2017, 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. With regard to the original building therefore, the side wall of the outrigger forms a side elevation of the original dwellinghouse.
7. Notwithstanding the fact that the outrigger has been encased within a later conservatory, and would be replaced by the proposed extension, the restriction set out in paragraph A.1(j)(iii) of Class A still applies. This is because the restriction is based on the original dwellinghouse, and this remains a consideration even if the relevant part of is removed.
8. The proposed extension would span the rear elevation of the original dwellinghouse, both replacing the outrigger and filling the space to its side. Consequently, it would both extend beyond a side elevation of the original dwellinghouse, and would have a width greater than half that of the original dwellinghouse. This would be contrary to paragraph A.1(j)(iii) of Class A.
9. On account of the fact that the conservatory represents an existing enlargement of the original dwellinghouse, I have given further consideration to whether paragraph A.1(ja) of Class A is applicable in this case. This measures the total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined), against the limits set out in paragraph A.1(e)-(j) of Class A. In this case however the development would involve replacement of both the outrigger and the conservatory. As such, the development would not involve the joining of an extension to an existing extension; thus paragraph A.1(ja) of Class A is not applicable.
10. For the reasons outlined above I conclude that the proposed development would not comply with the conditions, limitations or restrictions applicable to development permitted by Class A. Thus the proposed development is not permitted.

Other Matters

11. The appellant states that similar schemes have been permitted in other London Boroughs. However, I have no details, and in any case, the development clearly fails to meet the restriction set out in paragraph A.1(j)(iii) of Class A. Regardless of whether or not schemes have been allowed elsewhere therefore, my conclusion is unaltered.
12. The appellant also states that removal of the outrigger would be the safest option. This may be true. However, it again does not alter my conclusion that the proposed development falls outside that permitted by Class A.

Conclusion

13. For the reasons set out above, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR