



Appeal Decision

Site visit made on 18 November 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 25 November 2019

Appeal Ref: APP/Z5060/D/19/3226695

19 Hainault Road, Chadwell Heath RM6 6BJ

- 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 Mr Misbah Haque against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/00387/PRIOR6, dated 28 February 2019, was refused by notice dated 11 April 2019.
 - The development proposed is demolition of existing rear extension and proposed single storey 6.00 metres rear extensions.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) allows, as permitted development, the enlargement, improvement or other alteration of the original dwelling house. Thus, paragraph A.1(g) of Class A makes provision for single storey rear extensions of up to 6 metres in length¹ beyond the rear wall of the original dwelling house for properties other than detached dwellings and up to 4m in height². Paragraph A.1.(j) considers proposals that would extend beyond a wall forming a side elevation of the original dwellinghouse and sets out limitations and restrictions at A.1.(j)(i) to (iii).
3. At the time that the application was submitted to, and considered by, the Council paragraph A.1(g) of Class A had effect until 30 May 2019. However, the date was revoked on 1 May 2019³ and the wording of paragraph A.1(g) was amended accordingly. This is a technical point which does not affect the interests of any party.

Reasons

4. The appeal property has been subject to a lengthy planning history, some applications being recent, others less so. Of these, it is noted that planning permission was granted⁴ in the 1990's for a single / part two storey rear

¹ Paragraph A.1(g)(i)

² Paragraph A.1(g)(ii)

³ The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019, Part 2, paragraph 4(a)

⁴ LPA Ref No: 94/00187/TP

- extension to provide enlarged kitchen and lounge of ground floor with bedroom over, whilst more recently prior approval was required and refused for single storey rear extensions⁵.
5. The Council's case rests on the basis that the proposed extension would extend beyond a side wall of the original dwellinghouse and would, as it would extend across the full width of the rear elevation, have a width greater than half the width of the original dwellinghouse. Central to this is that, despite noting that the existing rear projection would be demolished to facilitate the proposed extension, the proposal would still extend beyond an original side wall of the house.
 6. The appellant disputes the Council's conclusion that the proposal would not benefit from permitted development rights but does not explain why or how. Instead, the presence of other similar developments in the area is noted and, as the proposal would match existing buildings in the area, it would not have a detrimental effect on the locality.
 7. The Council rely, in turn, upon a number of appeal decisions⁶ to support their contention that, even if a wall forming a side elevation of the original dwelling has been demolished and no longer exists, it is nonetheless capable of forming a side wall for the purposes of paragraph A.1.(j). However, the Council has not explained whether they consider the original side wall to have been subsumed within the existing part single storey / part two storey rear projection (which it is now proposed to demolish) or that it was removed at a previous point in time.
 8. I have not been presented with any definitive evidence by either party in this respect; be it by the appellant in terms of supporting the assertion that the proposal is within permitted development rights, or by the Council in terms of what constitutes a wall forming a side elevation of the original dwellinghouse. Nevertheless, the submitted site location and block plans do indicate a projecting element at the rear of Nos. 17 and 19 which does not appear to extend across the full width of the rear elevation. From this evidence I am satisfied that the return elevation of that projection would be sufficient to constitute a side elevation. Crucially, the appellant has not submitted compelling evidence to counter the Council's approach to this matter.
 9. I have had regard to the extract of the appeal decision⁷ quoted by the Council in their officer report and I have not been presented with any evidence that would lead me to a different conclusion to that reached in that instance by my colleague regarding a previously demolished side elevation. Thus, on the evidence I am inclined to accept the Council's argument in the absence of compelling or robust evidence to the contrary. The proposed extension would extend beyond a wall forming a side elevation of the original dwellinghouse and, as it would have a width equal to that of the existing house its width would be greater than half that of the original dwelling.
 10. The extension would not extend more than 6 metres from the rear wall of the original dwelling house⁸, nor would it exceed 4 metres in height⁹ or be more

⁵ LPA Ref Nos: 18/00344/PRIOR6 and 19/00106/PRIOR6

⁶ APP/B9506/X/15/3022061; APP/Z5060/D/16/3150737; APP/Z5060/D/16/3156051; APP/Z5060/D/17/3177142 and APP/Z5060/D/17/317964

⁷ APP/B9506/X/15/3022061

⁸ Paragraph A.1.(g)(i)

than a single storey¹⁰. Nor do the Council argue that the proposed extension would fall foul of any other restriction or limitation set out elsewhere at paragraph A.1.(a) to (k). These factors do not, however, alter my conclusions in respect of paragraph A.1.(j)(iii). The proposal would not, for these reasons, benefit from the permission granted by Class A of Part 1 of Schedule 2 of the Order as it would fall foul of the restriction placed upon this permission by paragraph A.1(j)(iii).

Conclusion

11. For the reasons set out above, and having considered all other matters raised, I conclude that the proposal would not fall within the definition of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) and the appeal should be dismissed

Graeme Robbie

INSPECTOR

⁹ Paragraphs A.1.(g)(ii) and A.1.(j)(i)

¹⁰ Paragraph A.1.(j)(ii)