
Appeal Decision

Site visit made on 23 September 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/N5090/D/19/3241204

15 Woolmead Avenue, London NW9 7BA

- 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, Schedule 2, Part 1, Class A and paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Murtaza Poptani against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/4833/PNH, dated 3 September 2019, was refused by notice dated 9 October 2019.
 - The development proposed is single storey rear extension with a proposed depth of 5 metres from the original rear wall, eaves height of 3 metres and maximum height of 3 metres.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Murtaza Poptani against the decision of the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed extension is permitted development.

Reasons

4. The appeal relates to a semi-detached house in a row of similar dwellings. As originally constructed, these houses had a two storey bay projecting beyond the main rear wall. A photograph within the appeal statement shows walls and windows to a two storey bay at the attached house, no.17 Woolmead Avenue, but the first floor of the bay at the appeal site replaced by a wall and window flush with the main rear wall with the ground floor bay remaining. The two storey bays have angled side walls linking the houses' and bays' rear walls.
5. The provisions of Article 3, Schedule 2, Part 1, Class A to the GPDO enable the enlargement of a dwellinghouse to be permitted development. However, under A.1.(j) an extension would not be permitted development if 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.

6. The extension would not exceed 4 metres in height and would be single storey. Its depth of 5m would accord with the limitations on the depth for a terraced house set by A.1.(g). But the proposal would not satisfy the third limitation set by A.1.(j) in that it would have a width greater than half the width of the original dwellinghouse.
7. A wall forming a side elevation of a house is any wall that cannot be identified as being a front wall or a rear wall. Where an extension is beyond any side wall, the restrictions in A.1.(j) are invoked, and they will apply to the whole extension. The width of the proposed extension would be the same as the width of the dwellinghouse. It would therefore have a width greater than half the width of the original dwellinghouse.
8. The proposal would not therefore be permitted development under the GPDO and there is no need to consider its impact on the amenity of neighbours or planning policy.
9. The appellant contends that as the two storey bay is to be demolished that its former side walls should be discounted for this assessment. However, the limitations of A.1.(j) apply where *"the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse"*. The two storey bay was part of the original dwellinghouse and included walls presenting side elevations. Demolition of the original two storey bay window therefore does not change the assessment of the proposal.
10. The appellant has drawn to my attention two similar prior approval cases approved by the Council near to the site. At 8 Dehar Crescent the plans showed a two storey rear extension to be demolished whereas at 51 Cool Oak Lane the first floor rear bay was retained. The Council's understanding in relation to prior approval restrictions at the time of these previous decisions may have differed to the present time. But I concur with the Council's reasoning on the current proposal and why prior approval should be refused.
11. A further consideration is that at the time of my site visit, the ground floor bay had been removed and a single storey rear extension constructed across the full width of the house. The proposal is seeking 'prior approval' under GPDO provisions A.4., but under A.4.(10) 'prior approval' cannot be granted for development that has already taken place. Moreover, the extension has not been built wholly in accordance with the submitted plans in that the rear elevation does not have a long set of folding doors, but just double doors and a separate window to the kitchen; a canopy has also been added to its roof.

Conclusion

12. For the reasons given the proposal is not permitted development under Article 3, Schedule 2, Part 1, Class A and paragraph A.4 of the GPDO. The appeal is therefore dismissed.

Rory MacLeod

INSPECTOR