
Appeal Decision

Site visit made on 13 October 2020

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/N5090/D/20/3253512

12 Bellevue Road, London N11 3ER

- 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, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Ashley D'Mello against the decision of Barnet London Borough Council.
 - The application Ref. 20/0582/PNH, dated 3 February 2020 was refused by notice dated 10 March 2020.
 - The development proposed is for a single storey rear extension.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a single storey rear extension at 12 Bellevue Road, London N11 3ER, in accordance with the application ref. 20/0582/PNH made on 3 February 2020, and the details submitted with it, including plan nos AP(00)01, AP(00)02 and AP(00)03A, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2), subject to the following condition:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: AP(00)01, AP(00)02 & AP(00)03 Rev A.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.

4. Paragraph A.4(4) states that sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act, such a refusal is to be treated as a refusal of an application for approval. Notwithstanding this, the local planning authority notified each adjoining owner or occupier about the proposed development and no representations were received in respect of this.

Main Issues

5. I therefore consider that the main issues in this appeal are whether the proposed development would be granted planning permission by Article 3(1), Schedule 2, Part 1, Class A of the GPDO; and whether the appellant provided sufficient information to enable the authority to establish whether the proposed development complied with the conditions, limitations or restrictions applicable to development permitted by Class A, which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

Reasons

6. The appeal site is a mid-terraced house which currently has a single storey lean-to extension across the whole of its existing rear elevation that would be demolished to make way for the proposal. The main two storey elevation of 10 Bellevue Road, adjoining and to the south east, is stepped back slightly so that there is a short return of the flank elevation of that dwelling going beyond the original rear elevation of the appeal dwelling. There is however no side elevation on the appeal dwelling itself and from assessing the plans before me it is apparent that the proposed 6 metre deep extension would solely consist of a rear extension, following demolition of the existing relatively modern addition which is open plan inside.
7. Therefore contrary to the council's first reason for refusal imposed upon their decision notice, paragraph A.1(j) to Part 1 is not applicable because the enlarged part of the dwellinghouse would not extend beyond a wall forming a side elevation of it.
8. The Council states that the appellant failed to provide accurate information regarding the eaves height of the proposed extension, highlighting that the application form states that the extension would have an eaves height of 3 metres, but when they measured the proposed plans an eaves height of 2.9 metres was shown to be proposed. I note from the submitted proposed elevation on drawing AP(00)03A that a parapet wall along the rear elevation of the proposed extension would measure 3 metres (m) high, with the eaves to each side elevation being slightly lower than this. Therefore I have no substantive reason to dispute the Council's measurement.
9. As set out within Government's Permitted Development Rights for Householder's Guidance (September 2019) (PDG), where concerning the enlargement, improvement or alteration of a dwelling house, under paragraph A.1(d), for the purpose of measuring height, the eaves of a house are the point where the lowest point of a roof slope or a flat roof, meets the outside wall. The height of the eaves should be measured from the ground level at the base of the external wall of the extension to the point where the external wall would meet (if projected upwards) the upper surface of the roof slope. Parapet walls

and overhanging parts of eaves should not be included in any calculation of eaves height.

10. Therefore, the critical consideration here is whether in totality the eaves of the extension would exceed 3m. It is quite clear that from section AA on the proposed drawing that the internal ceiling height of the extension would be 2.43 metres, and that the eaves would be lower than the 3m high parapet wall (2.9m as cited by the Council). It therefore goes without saying that on face value, the extension as shown to be designed would comply with paragraph A.1(i) of part A, in that the enlarged part of the dwelling house within 2 metres of the boundary of its curtilage would have an eaves height not exceeding 3m.
11. I accept the discrepancy between the application form and the proposed drawing regarding the eaves height, however the Council could have sought clarification from the appellant on this point. The drawings are to scale and clearly dimensioned, provided that the extension is built in accordance with them, the development would be permitted development. On balance, I consider that the appellant provided sufficient information to enable the authority to establish whether the proposed development complied with the conditions, limitations and restrictions applicable to development permitted by Class A.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed and prior approval is deemed to be granted. For the avoidance of doubt, and the sake of clarity, I have imposed a condition requiring the development to be carried out in accordance with the approved plans.

C J Tivey

INSPECTOR