



Appeal Decision

Site visit made on 23 December 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/N5090/D/20/3261943

21 Sylvester Road, East Finchley, London N2 8HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Gkerazis against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/3805/PNH, dated 18 August 2020, was refused by notice dated 28 September 2020.
 - The development proposed is a single storey rear extension with a proposed depth of 4.50 metres from original rear wall, eaves height of 3.00 metres and maximum height of 3.00 metres.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposed development would extend beyond a wall forming a side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse.

Reasons

3. The appeal building is a two storey terraced dwelling. The proposed development concerns a single storey rear extension thereto. The relevant legislative provisions¹ (GPDO) set out that such would be permitted provided (amongst other things) it would not comprise that which I have described in paragraph 2.
4. The proverbial nub of the matter in respect of the main issue concerns an existing rear projecting element of the building. Its sides are finished in brick and there is a window in it facing the rear garden. It has a flat roof. On the basis of the evidence available to me, it appears that this element is part of the original dwelling. Whilst contextually small, it encloses floor space, projects from the rear and therefore its side elevations form a side elevation of the original dwelling. This element differs from say a flue or chimney which may be more akin to a protrusion than necessarily a wall forming a side elevation. It comprises three complete sides and a roof.

¹ Schedule 2, Part 1, Class A (j) (iii) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5. The first floor window above this element evidently used to be a door which allowed access out onto its roof, perhaps then with steps down into the garden. I am unsure as to the reason for this but there is evidence of a bricked up larger opening and such an arrangement is still present to the rear elevation of a neighbouring building. The element therefore appears to have had some form of historic functional purpose which, for me and taking into account my earlier findings, sets this element apart from a simple bay window.
6. Whilst the proposed extension would be constructed in such a manner that it would extend solely from the rear elevation of the building it would still, as a matter of fact, also extend beyond a wall forming a side elevation of the original dwelling. Since the extension would span close to the entire width of the dwelling, it is clear that it would be greater than half its width. With this and the above in mind, the proposed extension cannot be development for which the relevant legislative provisions grant a deemed planning permission. An application for express planning permission would therefore be required.

Other Matters

7. The appellant explains that the existing element I have referred to above could be removed without the need for express planning permission. They could then, in their view, proceed with an extension akin to the proposals before me under permitted development. This may be so to a point, but the limitations of the GPDO relate to the original dwelling. So, if the element in discussion were to be removed, it would still have constituted the original dwelling and thus an extension at its point could still fall outside of what is permitted. There is nothing definitive in the relevant legislative provisions stating that the side wall has to still be there.
8. Other rear extensions have been brought to my attention. Specifically, Nos 13 and 19 Sylvester Road. The former of which was, according to the appellant, permitted under the GPDO provisions relevant to the appeal scheme. Be this as it may, I was not party to the circumstances of these cases and thus the reasons why they were permitted. Even indeed if they were determined on a correct interpretation of the relevant legislation. I am unsure how long these extensions have been in situ. With all of these factors in mind, I am not persuaded to allow the appeal.

Conclusion

9. The relevant legislative provisions are prescriptive and failure to comply with any part thereof means a given development would not be permitted by it. The appeal is thus dismissed.

John Morrison

INSPECTOR