



Appeal Decision

Site visit made on 14 January 2020

by R. Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2021

Appeal Ref: APP/W5780/D/20/3260810

16 Mornington Avenue, Ilford IG1 3QT

- 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, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Lee Kanzaria against the decision of London Borough of Redbridge.
 - The application Ref 2097/20, dated 28 June 2020, was refused by notice dated 18 August 2020.
 - The development proposed is described as 'single storey rear extension.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

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. Where an application is made for prior approval for development, Paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions that are applicable to such permitted development. Paragraph A.4(7) to Part 1 requires the local planning authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received.
3. The appellant has referred in the evidence to the National Planning Policy Framework and the policies of the Redbridge Local Plan 2015-2030 (2018). A prior approval appeal should not be determined, expressly or otherwise, on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied. The principle of development is established through the grant of permission of the Order. I have therefore only had regard to the development plan in so far as it assists in assessing the effect of the proposal on the living conditions of neighbours.

Main Issues

4. The main issues are whether the proposed development is permitted development for which prior approval can be granted, and if so, whether it

would raise any concerns in terms of the impact on the amenity of any adjoining premises.

Reasons

5. The host property, No.16 Mornington Avenue (No.16), is a two-storey semi-detached dwelling with an existing single-storey extension and glazed structure to the rear. These and a first-floor bay would be replaced by a full width extension measuring 6m in depth with a maximum height of 3.3m.
6. As the proposals would extend more than 3m from the rear elevation, it would exceed the limits in paragraph A.1(f) of the GPDO. It would however be allowed within the remit of paragraph A.1(g) as it would be single storey, extend 6m beyond the rear wall and have a height not exceeding 4m. I therefore consider that the proposal represents permitted development for which prior approval can be granted.
7. There are two adjacent properties potentially affected by the proposal, No.14 and No.18 Mornington Avenue (No.14 and No.18). No.18 has an existing large rear extension on its boundary and is separated from No.16 by a side pedestrian access. As such, there would be no significant effect upon the living conditions of the occupiers of this dwelling.
8. No.14 has no rear extension on the shared boundary but does have a single storey rear projection on the opposite side that has two windows which would look directly towards the proposed extension. There are also patio doors on the rear elevation which, from my site visit, appear to be to a habitable room. Because of the depth of the extension, the 45 degree line from the rear patio doors of No.14 would be breached and the height to eaves would extend above the boundary fence. There would therefore be some loss of daylight to the rear of No.14 but I am not persuaded it would be to an extent to cause significant harm to living conditions. Further, because the rear of No.14 is orientated to the north east, there would be no substantive loss of sunlight.
9. The proposed extension would extend 6m along the shared boundary with No.14, at a maximum height of 3.3m and 3m to the eaves. Whilst the existing modest rear extensions would be replaced, the depth and height of the proposal would create a substantial and dominant feature as seen from No.14. Although the length of the garden of No.14 is reasonably generous, the extension would all but enclose the most useable part of the garden closest to the patio doors, extending above the existing close boarded boundary fence. A 3m extension, within the limits of A.1(f) of the GDPO, would fall short of the rear projection of No.14 and would not therefore have a similar enclosing effect.
10. Further, the outlook from both the windows on the rear projection that face No.16 at close proximity, and the patio doors, would be significantly reduced. This would result in harm to the living conditions of the occupiers of No.14. I therefore find that in line with the advice set out in Schedule 2, Part 1, paragraph A.4 of the GPDO prior approval cannot be granted.

Other Matters

11. I note that the proposal would provide additional living space for the appellant and could be suitable for a person with disabilities. However, whilst a benefit,

this does not outweigh the harm I have found to the living conditions of the occupiers of No.14 Mornington Avenue.

Conclusion

12. For the reasons given above, I conclude the appeal should be dismissed.

R. Jones

INSPECTOR