



Appeal Decision

Site visit made on 1 July 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2022

Appeal Ref: APP/N5090/D/21/3282703

6 Daneland, London EN4 8PX

- 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 Dharmendra Tailor against the decision of London Borough of Barnet.
 - The application Ref 21/3014/PNH, dated 28 May 2021, was refused by notice dated 13 July 2021.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

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 Order), 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(7) to Part 1 states that where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

Main Issues

5. The main issues in the appeal are:
 - Whether the proposed development satisfies the requirements of the Town & Country (General Permitted Development) (England) Order 2015 with regard to being permitted development under the above Order.
 - If so, whether planning permission is deemed to have been granted.

and;

- If planning permission is not deemed to have been granted, whether the impact of the proposed development on the amenity of any adjoining premises is such as to require refusal of prior approval.

Reasons

Permitted development

6. The appeal property is a two-storey semi-detached dwellinghouse. It is agreed that the proposed development would extend no more than 6m from the rear wall of the original dwellinghouse. As such it would exceed the relevant limitation set out in paragraph A.1(f) but is within that allowed by paragraph A.1(g) to Part 1, subject to receiving notification from the local planning authority that prior approval is, or is not required, and whether such approval is granted or refused.
7. Paragraph A.4(2) sets out the information that the developer must provide to the local planning authority. This includes a written description of the proposed development including the maximum height of the enlarged part of the dwellinghouse. Paragraph A.4(3) outlines that the local planning authority may refuse an application where, in the opinion of the authority, amongst other things, the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, the conditions, limitations or restrictions applicable.
8. The appeal property has an existing single storey rear extension that projects 3m from the rear of the property. It leads onto a raised timber deck so that the floor level of the property is noticeably higher than the natural ground level. The proposed plans show how the proposed extension would be at the same finished floor level of the property. Neither the existing or proposed plans show the existing timber deck and the difference that does, and would ultimately, exist between the natural ground level and the finished floor level.
9. The result is that the proposed extension would not appear as shown on the submitted plans. It would, in effect, be greater in height than the 3m as shown on the proposed plans.
10. The appellant has outlined that the relevant criterion in the Order requires them to only provide a written description of the development including the maximum height. Be that as it may, I can not be certain from the details before me and from my own findings on my site visit that the height of the proposed extension would fall within the limitation of the Order. The description of development has to be consistent with the implementation of the proposed development having regard to the submitted plans and the situation on site. It follows that it is not sufficient to simply consign the matter to any future planning enforcement based on the lack of clarity I have identified.
11. The appellant has therefore provided insufficient information to enable me to establish whether the proposed development complies with the limitations as set out in the Order.

Amenity

12. Based on the findings above, it is not now necessary to consider this further.

Other Matters

13. There is some doubt as to whether the appellant has had sight of an objection from the occupier of a neighbouring property. However, as the appeal is being dismissed as I cannot conclude that it is permitted development, it has not been necessary for me to pursue this matter any further.

Conclusion

14. From the evidence before me and my observations on my site visit, I am unable to be certain that the proposed development would constitute permitted development.
15. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

A M Nilsson

INSPECTOR