



Appeal Decision

Site visit made on 27 June 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/N5090/D/21/3284504

93 Lynton Mead, Totteridge, London N20 8DH

- 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 & Mrs Elias & Nacim Hadjikyriacou against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/3702/PNH, dated 5 July 2021, was refused by notice dated 10 August 2021.
 - The development proposed is a single storey rear extension to the rear of the original wall.
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Decision

1. The appeal is allowed and prior approval is not required 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 with a depth of 6 metres from the original rear wall, eaves height of 2.74 metres and a maximum height of 3.74 metres at 93 Lynton Mead, Totteridge, London N20 8DH in accordance with the terms of the application, Ref 21/3702/PNH, dated 5 July 2021, and the plans submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4.

Application for costs

2. An application for costs was made by Mr & Mrs Elias & Nacim Hadjikyriacou against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Preliminary Matters

3. 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 specified limitations and conditions.
4. 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 an application where it considers that the proposed development does not comply with the relevant criteria so as to be permitted development. That occurred in this case.

5. The description of development used by the Council in its formal decision more accurately describes what is proposed. I have, therefore, adopted the Council's description in my formal decision, rather than that set out on the application form, and which is repeated in the banner heading above.

Main Issue

6. I consider that the main issue in this appeal is whether the proposed development is permitted under the provisions of Schedule 2, Part 1, Class A of the GPDO.

Reasons

7. The appeal property is a semi-detached dwelling with a two storey projecting bay window feature to the rear. The proposal is for a single storey extension that would extend across the full width of the rear of the property following the removal of the bay window at ground floor level. It would extend 6 metres out from the rear elevation and have an overall height of approximately 3.74 metres.

8. The Council's report on the application cites the criteria with which a proposal must comply to be considered permitted development. The only criteria said to be breached is sub-paragraph (j). This states that development is not permitted by Class A 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.*

9. It is the Council's contention that the projecting bay window feature to the rear comprises a side elevation of the original dwellinghouse and that the proposed extension would extend beyond this, resulting in an extension greater than half the width of the original dwellinghouse and, thus, it is not permitted development. The appeal, therefore, turns on whether the bay window feature to the rear of the property should be considered part of the rear elevation, or whether the walls of this feature constitute side elevations, for the purposes of the GPDO.

10. The appellant has drawn my attention to the 'Permitted development rights for householders – technical guidance' (September 2019)¹ (the Technical Guidance). Although this cannot be determinative, in the sense that it is not law but guidance, the document provides an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances.

11. In relation to the criteria set out in paragraph A.1(j), the Technical Guidance explains that a wall forming a side elevation of a house will be any that cannot be identified as being a front wall or rear wall. It also states that the rear wall or walls of a house will be those which are directly opposite the front of the house. The Technical Guidance includes a diagram that clearly identifies walls

¹ Permitted development rights for householders – Technical Guidance, September 2019, published by the Ministry of Housing, Communities and Local Government.

that would form side elevations (page 22). The diagram depicts these as being set at 90 degree angles to the rear elevation.

12. The bay window in the case before me is to the rear of the property, opposite the front of the house. It is not set at a 90 degree angle to the rear elevation, and instead projects at an approximate 45 degree angle, creating a three-sided feature that extends rearward by about 0.80 metres. These elevations are constructed of brick and include uPVC framed windows and French style doors at ground floor. There is no dispute that this is an original feature of the house given the prevalence of similar features on neighbouring properties along the street.
13. Whilst the bay window is a noticeable feature, its angle and depth of projection is not so significant that it could reasonably be described as anything other than a feature of the rear elevation, and thus part of it. Accordingly, its walls do not possess the characteristics of side elevations and therefore it does not constitute a side wall for the purposes of the GPDO.
14. Consequently, I find that the walls of the bay window form part of the rear elevation and so the proposed development would not extend beyond a wall forming a side elevation of the original dwellinghouse. The proposal would therefore be permitted development within the terms of Schedule 2, Part 1, Class A of the GPDO. No objections were received from neighbouring occupiers and so prior approval is not required.
15. To support its case, the Council has referred me to an appeal decision for a similar development at 45 Garrick Avenue². I do not have the full details of that case before me, but I can see that the appeal was dismissed on the basis that the rear bay window formed a side wall due to its substantial brickwork. However, in that case, the bay window feature was set at a right angle to the rear elevation of the property, it formed a substantial five-sided feature and had a greater rearward projection. Thus, it does not appear to be comparable to the case before me.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and prior approval is not required.

J M Tweddle

INSPECTOR

² Appeal Ref. 3208435 at 45 Garrick Avenue