



Appeal Decision

Site visit made on 13 February 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/U5360/D/22/3293372

38 Manor Road, Tottenham, London N17 0JJ

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Zvi Goldberg against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/3049, dated 28 October 2021, was refused by notice dated 1 December 2021.
 - The development proposed is erection of single storey extension which extends beyond the rear wall of the original house by 5.28m, for which the maximum height would be 3m and for which the height of the eaves would be 2m.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of single storey extension which extends beyond the rear wall of the original house by 5.28m, for which the maximum height would be 3m and for which the height of the eaves would be 2m at 38 Manor Road, Tottenham, London, N17 0JJ in accordance with the terms of the application Ref HGY/2021/3049 dated 28 October 2021, and the plans submitted with it including plan numbers 494-L&B, Pr-E001/E002/E003, PR-P002/P004.

Applications for costs

2. An application for costs was made by Mr Zvi Goldberg against the Council of the London Borough of Haringey. This application is the subject of a separate decision.

Preliminary Matters

3. Planning permission is granted by virtue of permitted development rights for certain types of development subject to specified conditions and limitations. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) relates to development within the curtilage of a dwellinghouse and grants permission for the enlargement, improvement or other alteration of a dwellinghouse.
4. Specifically, and relevant to this appeal, is paragraph A.1(g) which permits single storey rear extensions which exceed the limits in paragraph A.1(f) subject to the conditions set out in paragraph A.4.

Main Issues

5. The main issues are:

- whether or not prior approval is required for the proposed development in accordance with the condition set out in paragraph A.4(7) of the GPDO; and
- if so, what would be the effects of the proposed development on the amenity of adjoining premises with regard to outlook and light.

Reasons

6. The application which is the subject of this appeal was a notification under Schedule 2, Part 1, Class A of the GPDO of the intention to use permitted development rights to build a single storey rear extension which would exceed the limits in paragraph A.1(f) but which, subject to the conditions set out in paragraph A.4, would be allowed by paragraph A.1(g). There is no dispute between the parties that the proposed extension would fall within the size parameters set out in paragraph A.1(g) or that sufficient information has been provided.
7. Paragraph A.4(7) 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. The Council's position is that prior approval is required because an objection was raised. In its opinion, prior approval should be refused as the proposed development would have an adverse effect on the amenity of neighbouring residents by reason of a loss of light and outlook.
8. The Council's officer report identifies that two letters of representation were received on the application. One was from a councillor expressing concerns about the proposal. However, from the evidence before me, it appears that the councillor is not an owner or occupier of an adjoining premise. The objection would not therefore trigger the requirement for prior approval as set out in paragraph A.4(7). The other letter of representation was from an occupier of the host property supporting the proposal. As this is not an objection, it would also not trigger the requirement for prior approval.
9. Email correspondence¹ between the appellant and the Council following the decision on the application confirms that the Council took into account an objection from an adjoining owner or occupier that had been made on a separate prior notification application at the property. That is, application reference HGY/2021/3048. The reason given by the Council for taking this approach is because two applications were submitted at the same time for an identical development, and it would have been unjust not to take it into account.
10. The basis for the Council taking the position that prior approval would be required as to the impact of this appeal scheme on the amenity of any adjoining premises is therefore principally the objection made by the owner/occupier of no. 40 to the separate application, reference HGY/2021/3048.

¹ Email from the Council to Eade Planning dated 12 January 2022

11. I note the concerns expressed in the objection from the owner/occupier of 40 Manor Road. I also acknowledge the Council's points that the owner/occupier of no. 40 has lodged objections to a number of planning applications submitted for similar extensions to the property, demonstrating their views about such a development, and the confusion that may have been caused by the appellant submitting two identical applications so close together.
12. Nevertheless, the proposed development that is the subject of this appeal was separately registered by the Council as a valid application. It was given its own unique reference number and was subject to its own adjoining premises notification process. It therefore represents a stand-alone prior notification application, separate from the proposed development that is the subject of application HGY/2021/3048, notwithstanding that the plans are the same. I appreciate the Council's consistent position in resisting applications for similarly sized extensions at the property due to concerns about the effects on the living conditions of adjoining properties. However, in my view, the GPDO does not provide discretion to take into account objections from a different application, even if that application is for the same development.
13. On this basis therefore, there was no objection to the proposed development as set out in application reference HGY/2021/3049 from an owner or occupier of any adjoining premises. There is no evidence to suggest that the proposed development would fail to meet any of the other conditions set out in paragraph A.4.
14. Accordingly, while I take no pleasure from this, I conclude that in the absence of any objections from any owner or occupier of any adjoining premises, prior approval as to the impact of the proposed development on the amenity of any adjoining premises is not required. The proposed development would be permitted development under the terms of Schedule 2, Part 1, Class A.1(g) of the GPDO.
15. As a consequence of this, the question of the effects of the proposal on the amenity of adjoining premises and whether prior approval should be given for the proposed development on its merits does not arise.

Conditions

16. The permission granted for the development under Article 3(1) and Schedule 2, Part 1, Class A is subject to conditions set out in paragraphs A.3 and A.4(11)(b) of the GPDO. Paragraph A.3 specifies that the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Paragraph A.4(11)(b) states that the development must be carried out in accordance with the information provided under paragraph A.4(2).

Conclusion

17. For the reasons given above, prior approval is not required for the proposed development. Accordingly, I conclude that the appeal should succeed.

F Wilkinson

INSPECTOR