



Appeal Decision

Site visit made on 26 June 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/C1950/D/22/3304114

53 Heay Fields, Welwyn Garden City AL7 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Ariel Nazara against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2022/1358/PN8, dated 11 June 2022, was refused by notice dated 12 July 2022.
 - The development proposed is described as "single storey rear extension at 4 metres"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is referred to variously within the appeal documents as '53 Heayfield' and '53 Heay Fields'. As the latter address was used on both the planning application form and the Council's decision notice, I have used it also.
3. Although the Council used an amended description of development on the decision notice, it is unclear whether this change was agreed. Accordingly, I have taken the description from the planning application form.
4. The appellant has been afforded opportunity to provide grounds for the appeal but has not done so. Therefore, I have determined the appeal on this basis, having regard to the Council's evidence and statutory instruments, and no party has been prejudiced by my doing so.

Main Issue

5. The main issue is whether the proposal would constitute permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the GPDO 2015').

Reasons

6. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO 2015, planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions. However, Article 3(4) of the GPDO 2015 states that it does not permit development contrary to any condition imposed by planning permission otherwise than by the GPDO 2015.

7. The Council indicates, and it is not disputed by the appellant, that planning permission¹ for the appeal property was granted on 14 November 1974 and that Condition 5 of this permission states;

"Notwithstanding the provision of Article 3 of the Town and Country Planning, General Development Order 1973, or any subsequent order, the permitted development allowed under Class I and II to Schedule 1 shall not extend to the development hereby approved."

8. The GPDO 2015 is an order subsequent to the Town and Country Planning, General Development Order 1973 ('the GPDO 1973'). Class I and II to Schedule 1 of the GPDO 1973 included development within the curtilage of dwellinghouses. Schedule 2, Part 1 of the GPDO 2015 also relates to such development.
9. Therefore, on the basis of the evidence before me, the limitations set out in Condition 5 of planning permission N6/755/74 continue to apply to the appeal property and having regard to Article 3(4) of the GPDO 2015, the appeal proposal would not benefit from the permitted development rights given by Schedule 2, Part 1, Class A of the GPDO 2015. Therefore, planning permission is required for the proposal.
10. Given the above, it is not necessary for me to consider the prior approval element relating to the effect of the proposed development upon the living conditions of the occupiers of any adjoining premises.

Conclusion

11. For the reasons given, the appeal is dismissed.

C Harding

INSPECTOR

¹ N6/755/74