



Appeal Decision

Site visit made on 12 December 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/W5780/D/23/3321688

19 Inglehurst Gardens, Ilford IG4 5HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 Farooq Gulzar against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0862/23, dated 19 April 2023, was refused by notice dated 28 April 2023.
 - The development proposed is a single storey rear extension with a depth of 6.00 metres, highest point of 3.00 metres and height at the eaves of 3.00 metres.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) grants planning permission 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 (larger home extension), paragraph A.4(3) provides that the Local Planning Authority (LPA) 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. It is not in dispute that the proposal falls within the other limitations set out in Paragraph A.1. of Class A. However, where any objections are received to a proposal, the prior approval of the LPA is required as to the impact of the proposed development on the amenity of any adjoining premises as set out in Paragraph A.4(7) to Part 1.
5. An objection was received. The Council therefore considered the impact of the proposed development on the amenity of any adjoining premises, as required. The Council subsequently refused the application on grounds relating to the effects of the proposal on the living conditions of occupiers of No 21 Inglehurst Gardens.

6. I note the appellant's views on Right to Light legislation. However, this is a separate legal matter and not relevant to the determination of this appeal. Consideration of the right to light is not the same assessment as whether a development would compromise the living conditions of occupiers; the latter being a more subjective judgement which is relevant to the consideration of planning proposals. I have therefore considered this appeal giving due regard to the issues of light and outlook in respect of living conditions.
7. The government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issue, and I have determined the appeal on the basis of the new Framework.

Main Issues

8. The main issue is therefore whether prior approval should be granted, having regard to the effects of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to outlook and light.

Reasons

9. The appeal site consists of a semi-detached dwelling and its grounds which has been extended to the side. It is located in a residential area of similar properties. The proposed development would be situated at the rear of the host dwelling, which already has a 3 metre flat roof rear extension. The proposed extension would match the height of the existing rear addition at the property. The appeal proposal seeks to continue this extension, which in effect creates a 6 metre extension from the rear elevation of the host dwelling. The extension would be 3 metres in height and have a flat roof. It would extend across the original rear width of the dwelling house.
10. The rear extension would be located directly on the joint boundary with No 21 Inglehurst Avenue. The boundary to this property appeared to be made of the existing rear extension and a lower wall. Positioned along the length of the remainder of the joint boundary there was a timber fence with a trellis top. Although this appeared to be standard height it had bowed and was leaning into the vegetation within the neighbouring garden at No 21. There were numerous windows in the rear elevation of No 21. The photos submitted by the appellant show a patio area at the rear of the dwelling.
11. The appellant has also submitted several photographs showing the extent of the existing trees within the garden of No 21. As noted above, the trees and vegetation were evident during my site inspection. The vegetation within the neighbouring garden extended along the entire length of the boundary. I observed the vegetation consisted of trees and/or large shrubs, which appeared tall in places along the boundary and close to where the proposed extension would be sited.
12. Although the proposed extension would be single storey and only 3 metre further than an existing extension, the totality of the extension would extend a significant distance beyond the adjoining dwelling along the shared garden boundary. Its blank wall and solid form, which would significantly exceed the height of the existing fence would be a dominant and enclosing feature. No 19 lies to the south of No 21 and therefore the proposed development has the

- potential to cause additional loss of midday sunlight to the garden and rear of the property.
13. The combination of the orientation of the proposed development to No 21 and the depth, scale and bulk of the new extension and its proximity to the rear windows and garden of No 21 would be visually intrusive and enclosing. Notwithstanding the presence of the vegetation a large solid and permanent feature would adversely affect the outlook and levels of sunlight at certain points of the day within the dwelling and garden. As a result the rooms within the ground floor of No 21 and the patio area would be less attractive to use as a result.
14. The appellant has stated the trees restrict the neighbours light and air. Trees are not solid features and there would be dappled light to the garden and to the rear of No 21. The trees would not prevent air circulating, and humidity regulated. Furthermore trees and shrubs require maintenance, can be pruned or removed. I do acknowledge the existing vegetation provides a fairly dense screen and itself possibly impacts on the sunlight to the rear of No 21, which is shown in the appellants pictures. However, such vegetation can be removed and is less permanent than a building. The proposed extension would be positioned on the joint boundary with No 21, this would leave no room for landscaping to mitigate the effect of the extension if the neighbouring trees were removed. This does not therefore overcome my concerns.
15. The proposed development is set away from the joint boundary with No 17 Inglehurst Gardens. The Council did not find any harm arising to the living conditions of the occupiers of this property. I see no reason to disagree with their assessment. Furthermore the occupiers of properties which have a garden boundary with the appeal site at Danehurst Gardens would not be affected by the proposed development due to the distance involved. There is also an outbuilding at the rear of the appeal garden which would block the proposed development from view.
16. I note that the proposal would create additional space for the occupants during a cost of living crisis, which would clearly serve their needs of providing more space for family. However there is no substantive evidence regarding the need for the development or that such accommodation could not be providing whether with an alternative design.
17. Having regard to all of the above, I conclude that the proposed development would have an adverse effect on the living conditions of the adjoining premises at No 21 Inglehurst Gardens with regards to outlook and loss of light.

Conclusion

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

K Williams

INSPECTOR