



Appeal Decision

Site visit made on 7 May 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/N5090/W/23/3326012

71 Ashfield Road, Southgate, Barnet, London N14 7LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Alexey Chernykh against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/2072/PNH.
 - The development proposed is a single storey rear extension with a proposed depth of 6 metres, an eaves height of 2.95 metres and a maximum height of 4 metres.
-

Decision

1. The appeal is allowed and prior 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 a single storey rear extension with a proposed depth of 6 metres, an eaves height of 2.95 metres and a maximum height of 4 metres at 71 Ashfield Road, Southgate, Barnet, London N14 7LA in accordance with the application 23/2072/PNH and the details submitted with it, including the following plans: 71 Ashfield Road Existing, 71 Ashfield Road Proposed, 71AR/P3/01 and 71AR/P3/02.

Preliminary Matters

2. The description used by the Council differs from that used by the appellant. However, as it concisely reflects the development proposed, including the dimensions indicated within the submitted application form, I have also used it. However, I have omitted wording that describes details of the proposal that are not development.
3. Under Article 3(1) and Schedule 2, Part 1, Class A of the GPDO, planning permission is granted for the enlargement of a dwellinghouse subject to 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 the application where it considers that the proposed development does not comply, with the conditions, limitations or restrictions that are applicable to such permitted development.

Main Issue

5. The main issue is whether the proposed development would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The appeal property is two storey and semi-detached and the proposal would see the existing rear garage demolished. 71 Ashfield Road (No.71) shares a drive with neighbouring property 69 Ashfield Road, the driveway for both properties is angled outwards in order to accommodate the entrance to detached garages in their respective rear gardens.
7. The Council consider that as the rear extension would impinge on part of the area of the driveway, it would result in development outside the curtilage of the dwellinghouse. As a result, they consider that the development would not comply with the conditions, limitations or restrictions applicable to development permitted by Class A.
8. The term 'curtilage' is not defined within the GPDO but the Permitted Development Rights for Householders -Technical Guidance 2019 states that 'it is land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area'.
9. The technical guidance does not expressly state that shared land should not be included within the curtilage of a dwellinghouse. While it is acknowledged that curtilage is not contiguous with ownership the technical guidance only gives an example of dwellings set in large grounds and this is not the case for No.71. Based on the evidence before me the curtilage of No.71 includes the land directly to the rear of the property as it is part of the rear garden. I note that the shared driveway is not enclosed, however, driveways and front gardens often do not have a formal boundary treatment. As such, I do not consider that a physical boundary is a defining characteristic of a curtilage. As the rear garden is an area that serves the purpose of the building, in my judgement the proposed extension is within the curtilage of No.71.
10. The proposed extension complies with criteria A.1(e) to (k), A.2 (a) to (c) and A.3 (a) to (c) of Part 1, Class A. If a development permitted by Class A exceeds the limits in paragraph A.1 (f) but is allowed by paragraph A.1 (g) the local planning authority must notify each adjoining owner or occupier about the proposed development. I note the Council notified both neighbours and no replies were received.
11. The Council have provided me with two appeal decisions¹where the Inspector has made a judgement on what constitutes curtilage. Whilst I do not have the full details of these decisions, I note that for one of the appeals the land on which the development was sited was potentially in separate or shared use with a neighbouring House in Multiple Occupation, which did not have any permitted development rights. In the second example the Inspector, states that the appeal structure was 'in a passage to the rear of the back garden'. Therefore, both examples provided are materially different, as the proposed

¹ APP/W4705/X/15/3132989 and APP/F5540/C/11/2167198

extension would extend from the rear elevation of the appeal property onto land which forms part and parcel with the house, unlike the land in these two cases.

12. In conclusion, I find that the proposed development would be within the curtilage of No.71. It would therefore be permitted development within the terms of Schedule 2, Part 1, Class A of the GPDO.

Conclusion

13. For the reasons given above the appeal should be allowed and prior approval should be granted.

C Livingstone

INSPECTOR