Appeal Decision

Site visit made on 8 August 2017

by A Napier  BA(Hons) MRTPi MIEMA CEnv
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2017

Appeal Ref: APP/Z5060/D/17/3177142
41 Victoria Road, London IG11 8PY

- 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, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Pavas Garg against the decision of the Council of the London Borough of Barking & Dagenham.
- The application Ref 17/00527/PRIOR6, dated 21 March 2017, was refused by notice dated 9 May 2017.
- The development proposed is rear extension.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The date of the application provided in the Heading above is that given on the application form. Although the appeal form indicates a date of 25 March 2017, the Council has provided evidence to demonstrate that the application was received on 29 March 2017 and I intend to consider the appeal on this basis.

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) grants planning permission for certain classes of development, described as permitted development. To amount to permitted development, it is necessary for proposals to accord fully with the limitations relevant to the development concerned, as set out in the Order.

4. Having regard to the Council’s reason for refusal, it will first be necessary to consider whether or not the proposal would meet the relevant criteria for permitted development. If so, it will then be necessary to assess the potential impacts of the proposal. In considering an application for prior approval under Schedule 2, Part 1, Paragraph A.4, the GPDO requires the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received.

Reasons

5. Schedule 2, Part 1, Class A of the GPDO grants planning permission, subject to various criteria, for the enlargement, improvement or other alteration of a dwellinghouse. Paragraph A.1(j)(iii) states that development is not permitted if ‘the enlarged part of the dwellinghouse would extend beyond a wall forming a
side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse’. The GPDO defines the term ‘original’ as the building as it existed on 1 July 1948, or if built on or after that date, as so built.

6. The appeal property is a mid-terrace two-storey house and the proposed extension would extend across the full width of the dwelling. The Council’s officer report indicates that the house was originally built with a small single-storey rear projection, measuring 1.5 metres in depth and 1.0 metre in width. It is not disputed that no projection currently exists to the rear of the dwelling, although a wall exists to the side boundary with the adjoining dwelling. No floorplans have been provided of the original dwelling. However, a rear projecting element is shown on the location plan submitted within the application for prior approval, which lends support to the Council’s position.

7. In this regard, my attention has been drawn to an appeal decision. Whilst this appeal did not concern Paragraph A.1(j) of the GPDO, I have had regard to its approach to demolition and the original dwelling. Furthermore, although the appellant has made reference to the form and profile of the dwelling as it exists currently, there is nothing substantive before me to dispute the original existence of a rear projection.

8. In this particular case, the use of ‘forming’ within the GPDO is applied to the original dwellinghouse, which is defined by reference to a point in the past. As such, it appears to me that it is intended to mean the same as ‘which forms or formed’. On the balance of the evidence available to me, I am satisfied that the original dwelling included a rear projection, which has since been demolished. Having regard to this previous projection and the scale and location of the proposal, the development proposed would therefore extend beyond a wall that formed a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse.

9. Accordingly, for these reasons, the development proposed would not meet the limitations of Paragraph A.1(j)(iii) and, as such, I conclude that the proposal is not permitted development. Consequently, the proposal is development for which an application for planning permission is required. Such an application would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions of the Order. As I have found that the proposal falls outside the limitations of permitted development, it is not necessary to make a determination on the matters for prior approval.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

A Napier

INSPECTOR

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