
Appeal Decision

Site visit made on 25 July 2017

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2017

Appeal Ref: APP/W5780/D/17/3174896

1 Fairfield Road, Ilford, Essex, IG1 2JL

- 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.
 - The appeal is made by Mrs Nazia Rehman Malik against the decision of the London Borough of Redbridge.
 - The application Ref 0692/17, dated 17 February 2017, was refused by notice dated 25 30 March 2017.
 - The development proposed is a single storey rear extension with flat roof. All new materials to match those of the main dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the submission of the application for prior approval, a High Court judgement of relevance to the appeal proposal was made, in the case of *Winters v SSCLG & Havering LBC [2017] EWHC 357 (Admin)*, which considers the significance of a development having commenced prior to the submission of a prior approval application, or the issue of a Notice of Decision by the Council. I have provided both the appellant and the Council with the opportunity to comment on the implications of this judgement in light of the parties submitted cases, and refer further to this judgement in my reasoning.

Reasons

3. The appeal relates to a single-storey rear extension to a detached dwelling in a predominantly residential area, which from my observations had already been substantially progressed, with the main structure excepting the windows and doors in place at the time of my site visit, albeit that no internal decoration had been undertaken to facilitate the living accommodation. The development would comprise an extension beyond the original dwelling of 8 metres in length, with a height to eaves of 2.9 metres, and a total height of 3.1 metres.
 4. The Council assessed the extension against the provisions of Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), and concluded that as the proposed works had already been completed prior to the determination of the proposal, that the scheme could not be regarded as permitted development. Whilst I have been
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able to confirm that the works had not been completed at the time of my visit, nevertheless, I have been mindful of both the wording of paragraph A.4 of the GPDO, and the conclusions reached in *Winters v SSCLG & Havering LBC [2017] EWHC 357 (Admin)* (the High Court Judgement). In particular, my attention has been drawn to paragraph A.4(10) which requires that the development must not be begun before the receipt from the local planning authority of a written notice that prior approval is either (a) not required, or (b) has been given, or (c) the expiry of 42 days following the date on which the information for prior approval was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.

5. In this instance, I would agree that whilst the extension was substantially erect, it had neither been completed due to the absence of fenestration, nor was capable of habitable occupation. However, it is evident that the structure was commenced prior to the fulfilment of one of the required three events as set out in paragraph A.4(10) of the GPDO. As a consequence, and having had regard to the conclusions of the High Court Judgement, I am satisfied that prior approval cannot be given on the basis of a "proposed development" for development that has already begun, irrespective of whether it is wholly or partially completed.
6. I note that the appellant has suggested that there should be a relaxation in the statutory provisions for special circumstances where building works have been commenced prior to the submission of an application, and that various local planning authorities have indicated that the procedure for Prior Approval applications contains several flaws and a lack of clear guidance. However, whilst no evidence has been adduced to support the contention regarding various local planning authorities, such a modification is nevertheless clearly beyond the scope and remit of a planning appeal.
7. I have also had regard to the suggestion that the appellant should be allowed to resubmit the application given the contention that objectors had either withdrawn their objections, or that the objections had been made fraudulently. However, for the reasons which have already been set out above in respect of the GPDO, there is no further evidence or basis to suggest there are grounds for reaching an alternative decision were a resubmitted application to be made.
8. Furthermore, whilst I have also noted the various submissions on the amenity of neighbouring occupiers, the effect of other buildings and structures on the appeal site, as well as the possibility of amendments to the proposed scheme, as a consequence of the conclusion that the proposal is not permitted development, no further assessment of these matters is required and they have not had any impact on the decision.

Conclusion

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

M Seaton

INSPECTOR