
Appeal Decision

Site visit made on 10 October 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 26 October 2017

Appeal Ref: APP/G5750/D/17/3180504
14 Liddon Road, London E13 8AN

- 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 Asad Chaudhry, Interface Properties against the decision of the Council of the London Borough of Newham.
 - The application Ref 17/01936/PREHH, dated 6 June 2017, was refused by notice dated 13 July 2017.
 - The development proposed is demolish existing rear extensions then build new rear extensions.
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Decision

1. The appeal is dismissed.

Procedural matter

2. When I attended for the site visit neither the appellant nor representative was present. However, I was able to see the site from adjoining land courtesy of a neighbour who allowed me to use a step ladder to see over the fence from his rear garden. Given the main issue as set out below I am satisfied that I am able to determine the appeal without prejudice to any party.

Background and Main Issue

3. This appeal relates to the refusal of prior approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Under the GPDO the Council can refuse an application where, in its opinion, the proposed development does not comply with the conditions, limitations or restrictions applicable to the development in question. The Council is of the view that the development does not so comply.
4. Therefore the main issue is whether the proposed extension meets the criteria set out for permitted development under the GPDO.

Reasons

5. There is no dispute between the parties that the proposed development would extend further into the rear garden of the property than that permitted by Schedule 2, Part 1, Paragraph A.1(f) of the GPDO, but less than that permitted

- by Schedule 2, Part 1, Paragraph A.1(g). Consequently, the procedure set out in Schedule 2, Part 1, Paragraph A.4 applies.
6. Sub-paragraph (2) requires "*Before beginning the development the developer must provide the following information to the local planning authority- ...*". Sub-paragraph (5) requires "*The local planning authority must notify each adjoining owner or occupier about the proposed development ...*".
 7. The application was made on 6 June 2017. However, I have been provided by the Council with photographs dated on the image as taken on 8 March 2017 showing building works taking place on site, for example there is a large opening at the rear of the property so that it cannot be water tight, there was some metal scaffolding and a guard rail above the rear roof element.
 8. At the site visit I saw that the gap in the end wall had been completed and building works were no longer taking place on site although the dwelling was not occupied.
 9. However, the appellant states "The works have not started under this application" and "the owner has no intention of building the extension until the existing additions are demolished and for the Council to say that the work has already begun is to ignore the proposal of the owner". I have also been provided with a drawing showing "Pre-existing demolished layout Ground Floor Plan", although a neighbour indicates that "the pre-existing plans are incorrect and show structures that didn't exist and are actually part of the new structure."
 10. A judgement of this type should be based on objective evidence not on the intention of a developer. In this regard, although not identical to the proposed drawings, for example the windows in the side elevation are not the same and there are no rooflights over the single storey side extension adjacent to No 12, the situation I saw on site corresponded to the development as shown would have been the situation as a result of the works of the application being mostly completed.
 11. In my view it is beyond reasonable belief for somebody to undertake works of improvement to a building (for example by rendering it and replacing a rear set of doors), only to then seek to demolish those works and replace them.
 12. I am therefore satisfied on the balance of probabilities that the works the subject of the application have been commenced.
 13. As set out above sub-paragraph (2) is written in absolute terms through the use of the word "must". A failure to comply with it therefore means that the works in question are no longer permitted development. Works had commenced prior to the application being made. Consequently, the works are not permitted development.

Other matters

14. This decision relates only to whether the works represent "permitted development" and I have made no assessment of the planning merits of the works.

Conclusion

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

RJ Jackson

INSPECTOR