
Appeal Decision

Site visit made on 29 June 2020 by Hilary Senior BA (Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 18 September 2020

Appeal Ref: APP/T4210/D/20/3247540

5 Brook Drive, Whitefield, Manchester M45 8FR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Kahed Kapacee against the decision of Bury Metropolitan Borough Council.
 - The application Ref 65003, dated 13 December 2019, was refused by notice dated 19 February 2020.
 - The development proposed is described as "garden room to rear, brick built to match existing, upvc frames, insulated roof- pre approved."
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for "garden room to rear, brick built to match existing, upvc frames, insulated roof- pre approved" at 5 Brook Drive, Whitefield, Manchester M45 8FR in accordance with the application Ref 65003 made on 24 January 2020, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue relates to whether or not the proposal constitutes permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), and if so, whether prior approval is required.

Reasons

4. 5 Brook Drive is a previously extended brick built semi-detached property located in a residential area.
5. The proposal is to construct a single storey rear extension. The application form indicates that the proposal would extend 6m beyond the rear wall of the

- original dwelling house, with a maximum height of 2.9m and a maximum eaves height of 2.1m.
6. Proposals for the enlargement, improvement or other alteration of a dwellinghouse constitute permitted development provided that they satisfy the conditions, limitations or restrictions set out in Schedule 2, Part 1, Class A of the GPDO. Paragraph A.4 sets out the conditions that must be met for extensions which exceed the thresholds of paragraph A.1(f) but fall within those in paragraph A.1(g), which applies to this proposal. As laid down by Schedule 2, Part 1, paragraph A.1(3)(b), the Council may refuse an application where, in its opinion, the developer has provided insufficient information to enable the Council to establish whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted by paragraph A.1(g).
 7. The Council refused the application as the submitted plan was insufficient to determine whether the proposal would be wholly within the curtilage of the dwellinghouse.
 8. The appellant has submitted, in the statement of case, additional details regarding the proposal, specifically the distance from the shared boundary with 7 Brook Drive would be 150mm. Whilst the HAS appeal procedure does not normally allow the Council to comment on the grounds of appeal, Regulation 8(1) of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 allows that: 'The Secretary of State may in writing require the appellant, local planning authority and other interested persons, to provide such further information relevant to the appeal as may be specified.' In this case, the issue was a straightforward one and it was reasonable to give the Council an opportunity for comments to be made within a specified time period.
 9. In response to the request the Council confirmed that this would be an acceptable distance in ensuring no part of the proposal including eaves, guttering and foundations would encroach across the boundary into the neighbouring dwellinghouse.
 10. The proposal therefore complies with the applicable conditions, limitations and restrictions in Schedule 2, Part 1, paragraph A.1(g) of the GPDO.
 11. In addition, following the receipt of the additional information, the Council was requested to carry out neighbour consultation on the proposal. There is no evidence before me that any objections were received in response to this consultation.
 12. Paragraph A.4.(7) states that where objections or comments are received, prior approval is required as to the impact of the proposed development on the amenity of any adjoining premises. As no objections were received it is not necessary to assess the amenity aspects of the proposal.
 13. Therefore, conditions of para A.1 (g) are met, prior approval is not required, and the appeal is allowed.

Conclusion and Recommendation

14. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed, and prior approval is not required.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Susan Ashworth

INSPECTOR