



Appeal Decision

Site visit made on 6 October 2020

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2020

Appeal Ref: APP/L5810/D/20/3249259

6 Maguire Drive, Ham, London TW10 7XY

- 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 Miss Katie Holt against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/0283/PDE, dated 20 December 2019, was refused by notice dated 25 February 2020.
 - The development proposed is single storey ground floor rear extension projecting 4.3m from the current rear elevation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is made following the refusal of an application for notification for 'prior approval' for the development described in the banner heading above. The Council refused the application on the basis that it would have a harmful impact on the amenity of neighbouring occupiers. The Council's planning report makes no reference to works having commenced on site. However, the appellant's submissions contain photographs which clearly show that the works had started at the time of submission of the appeal. Furthermore, observations on my site visit confirmed that the extension was substantially complete. I have considered the appeal on this basis.

Main Issues

3. Taking into account the above, I consider that the main issues in this appeal are:
 - Whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)* (GPDO) and;
 - The impact of the proposed development on the amenity of adjoining premises (No 4 and No 8 Maguire Drive) with specific reference to outlook.

Reasons

4. The GPDO enables certain types of development to take place without the need for a specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 1, Class A for the enlargement, improvement or other alteration of a dwelling house subject to conditions set out at Paragraphs A.3 and A.4.
5. Class A of the GPDO contains a provision that an application should be made to the local planning authority for a determination as to whether prior approval is required *before the beginning of development* (paragraph A.4 (2)). It also provides that *development must not begin* (Paragraph A.4 (10)) before the occurrence of one of the following: the receipt by the developer from the local planning authority of a written notice that their prior approval is not required; the receipt by the developer from the local planning authority of a written notice giving their prior approval; or the expiry of 42 days following the date on which the information was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.
6. Photographs within the appellant's submissions show that building work for the extension had commenced at the time of submission of the appeal with a flank wall partially constructed. At the time of my site visit, the extension was clearly substantially complete. The exterior walls, roof and windows were complete, and the installation of the kitchen had started.
7. The works had not commenced at the time of notification of the prior approval to the local planning authority. However, any approval or refusal given, under condition A.4 is concerned with a "*proposed development*" that Class A is capable of authorising, not a development that has already been begun or one which is partially or wholly completed. Unlike section 73A of the 1990 Act¹, Condition A.4 does not provide for any approval to be given retrospectively. Paragraph A.4 cannot, therefore, authorise development that has already begun or is wholly completed before any objection falls to be considered.
8. Consequently, as the extension has been substantially completed, the application does not comply with condition (10) of paragraph A.4 of Class A, Part 1, Schedule 2 of the GPDO, as the appellant had not received a written notice giving prior approval for the development. The proposal does not therefore amount to permitted development. This is not a matter that can be remedied through the appeal process and, as such, the question of whether, on its merits, prior approval should be given for the proposal does not arise and so, there is no need to consider the second main issue.

Conclusion

9. I, therefore, conclude that the appeal must be dismissed.

Caroline Mulloy

Inspector

¹ Town and Country Planning Act 1990