



Appeal Decision

Site visit made on 11 February 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021.

Appeal Ref: APP/F5540/D/20/3248755

8 Danesbury Road, Feltham, TW13 5BH

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Julien Sanders against the decision of London Borough of Hounslow.
 - The application Ref 0036/8/PA1, dated 30 January 2020, was refused by notice dated 11 March 2020.
 - The development proposed is ground floor rear extension, 4 metres deep, maximum height of 3.8 metres, 2.7 metres high to eaves.
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Decision

1. The appeal is dismissed.

Preliminary Matters, Main Issue & Reasons

2. Under Article 3(1) and Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. The Council's decision notice stated that the proposed extension failed to comply with Article 3(1) and Schedule 2, Part 1 Class A of the GPDO as the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwelling. Neither the Council's decision nor its delegated report (Initial Desktop Assessment) provided an indication of which paragraph of Class A its decision related to. The Appellant interpreted the reference to be the side elevations of the existing rear ground floor extensions.
4. I therefore invited the Council to clarify its position. The Council confirmed that the reference to side elevation related to what they contended was a two storey side extension to the original dwelling. If that extension was constructed after 1st July 1948, the Council's position was that it would not constitute part of the original house, and as the proposed rear extension would then project beyond a side wall of the original house and have a width greater than half the width of the original house, the new extension would not comply with Class A.1 (j) of the GPDO.
5. In view of this and as I did not view the rear of the appeal property on my site visit, I asked the Appellant to respond and to also clarify the position in relation to whether any works to construct the proposed extension had commenced.

The Appellant's email of 11 March 2021 confirmed that the proposed extension had now been built and an accompanying photograph showed that the extension, as outlined on the submitted plans, was substantially complete.

6. Where there is a failure to adhere to the requirements of the prior approval conditions to Class A of the GPDO then prior approval cannot be granted. These conditions are listed under paragraphs A.3 and A.4. Paragraph A.4 (10) applies in this case and states that development must not begin until the Council have provided written notice that prior approval is not required or prior approval is given or where no decision is issued within 42 days of the receipt of the original application. In this particular case, the Council refused the application for prior approval within the required 42 days.
7. Based on the evidence before me, I find, therefore, that the proposed development, in the form of the new rear ground floor extension, has begun and substantially been completed. As a consequence, I find that the failure to adhere to the requirements of the prior approval conditions means that prior approval cannot be granted and that the appeal must fail for this reason.
8. Given the above, I have not considered the question of whether the proposed development would comply with Class A.1 (j) of the GPDO. Even so, it remains open for the Appellant to apply to the Council to seek to regularise the planning position of the built rear ground floor extension and any such application would be unaffected by my decision on this appeal.

Conclusion

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

G Roberts

INSPECTOR