



Appeal Decision

Site Visit made on 13 April 2021

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2021

Appeal Ref: APP/P4605/W/20/3264130

289 Dawlish Road, Birmingham, B29 7AU

- 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, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Sandeep Krishan against Birmingham City Council.
 - The application Ref 2020/05320/PA dated 10 July 2020, was refused by notice dated 23 September 2020.
 - The development proposed is described as a single storey rear extension 6.00m depth @ 289 Dawlish Road, Birmingham, B29 7AU.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In their appeal statement the appellant stated that the development had commenced and was, at the time of writing, nearly completed. Whilst on site I noted a two storey rear extension across the most part of the dwelling, and a single storey rear extension across the remainder. While this extension was complete, it was clear that some internal works were going on within the property. While the extension goes beyond what is sought here, by way of the first floor extension, it was clear from my observations on site that the extension matches the footprint of the scheme before me.
3. The Council's aerial photography shows the extension in place in 2016 and I note that it matches the description of the extension subject to an enforcement notice issued by the Council on 4 February 2016.
4. Prior approval cannot be granted for development that has already begun¹.

Main Issue

5. Therefore, the main issue is whether or not the proposed development has commenced.

Reasons

6. Based on the information before me, and my observations on site, I find that the development applied for under prior approval had already commenced at the time of the application by way of the two-storey rear extension which has

¹ Schedule 2, Part 1, Class A Paragraph A.4 (10) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

been completed. As stated above, prior approval cannot be granted for development that has already begun.

Other Matters

7. While I note the Council issued a decision on the 16 July, this was not sent to the correct address and so the appellant was not notified of the decision. From the information before me it appears the earliest date at which the appellant was aware of a decision having been made was 23 September. As such the Council's decision notice was not issued within the 42 days set out in Paragraph A.4(10)(c). However, as the development had already begun, there is no deemed consent.

Conclusion

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

Samuel Watson

INSPECTOR