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# Appeal Decisions

Site Visit made on 15 June 2021

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 July 2021**

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## **Appeal A Ref: APP/N4720/D/20/3264630**

### **44 Broomhill Drive, Leeds LS17 6JJ**

- 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, Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Mr G White against the decision of Leeds City Council.
  - The application Ref 20/06555/DPD, dated 12 October 2020, was refused by notice dated 7 December 2020.
  - The development proposed is prior approval for enlargement of a dwellinghouse by construction of additional stories; the development will go 1.0m above the highest point of the existing roof.
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## **Appeal B Ref: APP/N4720/D/21/3267096**

### **44 Broomhill Drive, LEEDS, LS17 6JJ**

- 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, Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Mr G White against the decision of Leeds City Council.
  - The application Ref 20/06618/DPD, dated 12 October 2020, was refused by notice dated 7 December 2020.
  - The development proposed is prior approval for enlargement of a dwellinghouse by construction of additional stories; the development will go 1.0m above the highest point of the existing roof.
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## **Decisions**

1. Appeal **A** and appeal **B** are both dismissed.

## **Procedural Matter**

2. As set out above, there are two appeals on this site. Whilst the planning history of the site is relevant to the consideration of both proposals, I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.
3. For both appeal **A** and appeal **B**, I have used the more concise description of the proposals given on the Council's decision notices and the appellant's appeal forms. I have also used the postcode for the site given on these documents and not the incorrect postcode given on the original application forms.

## **Background and Main Issue**

4. Schedule 2, Part 1, Class AA of the GPDO sets out permitted development rights for –

- 'the enlargement of a dwellinghouse consisting of the construction of –
- (a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or
  - (b) one additional storey, where the existing dwellinghouse consists of one storey,
- immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.'
- 5. Where development is permitted by Class AA, it is subject to the conditions set out in Class AA.2 sub-paragraphs (2) and (3). The Council refused permission in relation to the applications which led to the submission of appeals **A** and **B** on the grounds that it considered that the proposals were unacceptable having regard to the detailed prior approval matters under sub-paragraph (3) relating to the external appearance of the dwellinghouse and a requirement for a pre-commencement report to be provided relating to the management of the construction of the development.
  - 6. The Council has subsequently advised the appellant that it does not in any case consider that the dwellinghouse qualifies for the permitted development right having regard to Class AA.1 of the GPDO which sets out the instances where development is not permitted by Class AA.
  - 7. The main issues for both appeal **A** and appeal **B** are therefore (i) whether the proposal would be permitted development in respect of the enlargement of a dwellinghouse by construction of additional storeys; and (ii) if so, whether or not the proposal would satisfy the detailed prior approval matters as detailed in Class AA.2 of Schedule 2, Part 1 of the GPDO.

## Reasons

### *Whether permitted development*

- 8. Class AA.1 includes amongst other things that development is not permitted by Class AA if '(c) the dwellinghouse was constructed before 1<sup>st</sup> July 1948 or after 28<sup>th</sup> October 2018'.
- 9. The Council suggests that the dwellinghouse forms part of a building which is shown on historic maps dating from 1894. This has not been disputed by the appellant. The appellant however contends that the appeal dwellinghouse came into existence when the original building was subdivided and converted into more than one dwelling unit between the above specified dates. However, this only indicates that the dwellinghouse resulted from the adaptation of the building. Given the reference to 'constructed', the limitation at Class AA.1 (c) should be interpreted as referring to the construction or erection of the building that is now used as a dwellinghouse which, from the evidence before me, took place before 1<sup>st</sup> July 1948 in this instance.
- 10. I conclude that the dwellinghouse does not meet the qualifying criteria under Schedule 2, Part 1, Class AA.1 (c) of the GPDO and therefore the proposals under both appeal **A** and appeal **B** are not permitted development.

*Detailed Prior Approval Matters*

11. As I have found that the proposals under both appeal **A** and appeal **B** would not be development permitted by the GPDO, the detailed prior approval matters do not fall to be considered as part of the determination of appeal **A** or appeal **B**.

**Conclusion**

12. For the reasons outlined above, I conclude that both appeal **A** and appeal **B** should be dismissed.

*M Russell*

INSPECTOR