



Appeal Decision

Site Visit made on 20 August 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2021

Appeal A Ref: APP/Y5420/D/21/3271478

Appeal B Ref: APP/Y5420/D/21/3271479

20 Franklin Street, London N15 6QH

- The appeals are 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 appeals are made by Mr Getzel Schreiber against the decisions of London Borough of Haringey.
 - **Appeal A** concerns the application Ref HGY/2020/3266, dated 21 December 2020, was refused by notice dated 26 January 2021. The development proposed is a 6-metre ground floor extension.
 - **Appeal B** concerns the application Ref HGY/2021/0358, dated 2 February 2021, was refused by notice dated 16 March 2021. The development proposed is a 6-metre ground floor extension.
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Decision Appeal A

1. I allow the appeal and conclude that permission has been deemed to be granted.

Decision Appeal B

2. I allow the appeal and conclude that permission has been deemed to be granted.

Applications for costs

3. In each appeal an application for costs was made by Mr Getzel Schreiber against the London Borough of Haringey. These applications are the subject of separate Decisions.

Preliminary Matters

4. The appeals concern two applications for prior approval as set out above. Although the applications were made chronologically, they are for the same form of development, that being a 6m single storey rear extension. It is therefore appropriate to deal with these appeals in a single Decision document.
5. 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.
6. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is

allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.

7. Paragraph A.4(7) to Part 1 states that where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

Main Issues

8. The main issues in both appeals are:

- Whether the proposals satisfy the requirements of the Town & Country (General Permitted Development) (England) Order 2015 with regard to being permitted development under the above Order.
 - If so, whether planning permission is deemed to have been granted.
- and;
- If planning permission is not deemed to have been granted, whether the impact of the proposed development on the amenity of any adjoining premises is such as to require refusal of prior approval.

Reasons

Permitted development

9. The appeal property is a two-storey dwellinghouse. The proposed development would extend no more than 6m from the rear wall of the original dwellinghouse and would not exceed 4m in height. As such it would exceed the limitations set out in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, subject to receiving notification from the local planning authority that prior approval is, or is not required, and whether such approval is granted or refused.
10. In considering whether prior approval is required, the local planning authority are required to notify each adjoining owner or occupier about the proposed development by serving on them a notice, and where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.
11. In both cases, an objection was received from a nearby property. The local planning authority deemed this to constitute a form of objection as set out above and proceeded to deem that, in both cases, prior approval was therefore required and subsequently refused due to the impact on the amenity of adjoining premises.
12. The appellants case focuses on whether or not the objections that were received constituted those of the nature as set out in the Order, the appellant considering they do not, and the local planning authority being of the opposing view.

13. This element of the case hinges on whether the objection was from an 'adjoining' premises. Section 2(1) of the Order defines 'adjoining owner or occupier' as any owner or occupier of any premises or land adjoining the site. Section 60 (2C) of the Town and Country Planning Act 1990 also states that 'adjoining premises' includes any land adjoining (a) the dwelling house concerned, or (b) the boundary of its curtilage.
14. As part of the appeal, I requested more information from the parties about the ownership/occupation of land adjoining the appeal site and whether such land was owned or occupied by the residents of No. 8 Richmond Road, from whom an objection was received to each application.
15. The evidence, that includes land registry documents, indicates that the land that adjoins the appeal site is not within the ownership of the occupants of No. 8 Richmond Road. The appellants further evidence, that is not challenged by the Council, also shows that the land which adjoins the appeal site is not occupied by the occupants of No. 8 Richmond Road.
16. Therefore, despite being in close proximity to the appeal site, having regard to the definitions above, and based on the evidence received, as a matter of fact and degree, No. 8 Richmond Road does not adjoin the appeal site. No other objections were received.
17. It therefore follows that no owner or occupier of any adjoining premises objected to the proposed developments in either application. As a result, prior approval is not required in either case on this basis.

Amenity

18. Based on the findings above, it is not now necessary to consider this further.

Conditions

19. Paragraph A.4(11) of the Order requires that, where prior approval is not required, the development must be carried out, in accordance with the information provided under sub-paragraph (2), that, in effect, being the plans and details submitted to the local planning authority, unless the local planning authority and the developer agree otherwise in writing.

Conclusions

20. The proposals are permitted development under Schedule 2, Part 1, Class A of the Order, for which planning permission is deemed to have been granted and prior approval is not required. For the reasons given above it is concluded that both appeals should succeed.

A M Nilsson

INSPECTOR