



Appeal Decisions

Site Visit made on 13 July 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/P4605/W/21/3268117

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 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 Sandeep Krishan, Flare Homes Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/10152/PA, dated 18 December 2020, was refused by notice dated 27 January 2021.
 - The development proposed is a single-storey rear extension 6 metre depth.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are three appeals relating to this site, one being the subject of this appeal, the other two being ref APP/P4605/D/21/3269622 and ref APP/P4605/D/21/3268115. I am determining all three appeals.
3. At the time of my site visit there were unauthorised works at the site (part single storey and part two storey rear/side extension and roof enlargements) which were the subject of an enforcement notice.
4. 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.
5. Where an application is made for a determination as to whether prior approval is required for development, 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.
6. Paragraph A.4(7) to Part 1 requires the local planning authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received.

Main Issue

7. Whether the development would be granted planning permission by Schedule 2, Part 1, Class A of the General Permitted Development Order (GPDO).

Reasons

8. Schedule 2, Part 1, Class A of the GPDO states that the enlargement, improvement or other alteration of a dwellinghouse is permitted development, subject to limitations of Paragraph A.1.
9. However, the High Court has held that the parent dwelling must be retained in order for the householder to benefit from permitted development rights. The rights assume the continuing existence of the original structure; if that is lost, so are the rights.
10. The original dwelling has been altered owing to unauthorised development which is the subject of an enforcement notice. The appeal property, therefore, does not benefit from permitted development rights, in line with Article 3 (5)(b) of the GPDO.
11. As it is not within the remit of this appeal for me to ascertain the validity of the enforcement notice, I make no further comment on the appellant's concerns in this regard.
12. Therefore, for the reasons above, the development would not fall within the scope of the provisions of the GPDO.

Conclusion

13. For the reasons given above, the appeal is dismissed and prior approval is not granted.

R Walmsley

INSPECTOR