



Appeal Decision

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/21/3268115

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 prior approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town 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 2020/10153/PA, dated 18 December 2020, was refused by notice dated 24 December 2020.
 - The development proposed is a single-storey rear extension 6 metre depth.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of 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) for a single storey rear extension 6 metre depth at 289 Dawlish Road, Birmingham B29 7AU, in accordance with the application ref 2020/10153/PA made on 18 December 2020, and the details submitted with it, including Proposed Floor Plans, Elevations, Site Block & OS Plans, Drawing No: PA202 Rev C pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

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/W/21/3268117. I am determining all three appeals.
3. Whilst I have assessed the appeal on its own merits, I am aware that there are unauthorised works at the site (part single storey and part two storey rear/side extension and roof enlargements) which are the subject of an enforcement notice. These works would need to be regularised for the scheme to proceed on a lawful basis.
4. The Council decided the works proposed were outside the scope of permitted development which is reflected in a letter dated 24 December 2020. There is also evidence of the Council referring to the application being withdrawn. The appellant appealed against non-determination. During the course of the appeal the Main Parties were advised that the Council's letter dated 24 December 2020 would be accepted as the Council's decision and the appeal decided accordingly. No further comments were received.

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, 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 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

8. The main issue is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO.

Reasons

9. 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.
10. It is proposed to build an extension under Part 1, Class A following the partial demolition of the dwellinghouse. The part to be demolished is part of the original dwelling. The proposal is to replace the part demolished with a wider rear extension. The development should, therefore, be assessed on the basis that it would 'extend beyond a wall forming a side elevation of the original dwellinghouse' for the purpose of A.1(j) of Part 1, Class A of the GPDO.
11. The development would not exceed 4 metres in height A.1(j)(i) and would not have more than a single storey A.1(j)(ii). The Council's concern relates to the width of the extension and A.1(j)(iii) accordingly. The plans show an original dwelling width of over 4495 mm. As the part to be demolished is part of the original dwelling house, the extension would be 2175 mm which would not be greater than half the width of the original dwellinghouse. The proposal would, therefore, meet the limitation of A.1(j)(iii).
12. Therefore, I conclude that the proposal would constitute permitted development under Schedule 2, Part 1, Paragraph A.1 of the GPDO. Consequently, it is development that a planning application would not be required for.

Conclusion

13. For the reasons given above I conclude that the appeal is allowed and prior approval is deemed to be granted.

R Walmsley

INSPECTOR