



Appeal Decision

Site Visit made on 2 November 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2021

Appeal Ref: APP/P4605/D/21/3277442

16 Felstone Road, Birmingham B44 9AB

- 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.
 - The appeal is made by Miss Sian Osuji against the decision of Birmingham City Council.
 - The application Ref 2021/04076/PA, dated 5 May 2021, was refused by notice dated 14 June 2021.
 - The development proposed is erection of 5 metre deep single storey rear extension. Maximum height 4 metres, eaves height 4 metres.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the heading above is taken from the Council's decision notice rather than the prior approval application form submitted to the Council. The description on that form is somewhat lengthy and explains the planning history of the site rather than precisely what is proposed in the prior approval scheme. The description above reflects the measurements specified on the appellant's application form. I have determined the appeal on that basis, albeit noting comments in the appellant's appeal statement that seek to clarify the proposed eaves height.
3. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), at Paragraph A.4., states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

Main Issue

4. The main issue is whether or not it has been demonstrated that the proposed development would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Reasons

5. Paragraph A.4.(2)(b) of the GPDO requires that a plan must be provided to show the proposed development and any existing enlargement of the original dwellinghouse to which it will be joined. The appeal site is understood to have

planning permission for a two storey rear extension. At the time of my site visit, construction of that extension appeared to be underway and it is therefore highly likely that that extension will be completed. Consequently it logically comprises an 'existing enlargement'. Sub-paragraph A.1.(ja) of the GPDO requires limitations set out within sub-paragraphs (e) to (j) to be applied to both the enlargement being proposed under a prior approval scheme, together with any existing enlargement of the original dwellinghouse to which it will be joined. Of these, sub-paragraph (i) does not permit proposals that would be within two metres of the boundary of the grounds of the property and with an eaves height of greater than three metres.

6. It is not disputed that the proposed extension would be within two metres of the side boundary of the appeal site. However, information in respect of the eaves height of the proposed single storey extension is inconsistent. The application form states a maximum height to eaves of four metres. The appeal form indicates the eaves height would not exceed three metres and the total height would not exceed four metres. Given the flat roof design it is not clear how those dimensions could hold true for the proposal before me. Moreover, the height of the two storey extension has not been provided. Even were I to accept that the proposed single storey extension would not exceed three metres to eaves, in all likelihood, the two storey element would. For these reasons I cannot reach a judgement as to whether the proposal would comply with the limitations set out in the GPDO and specifically sub-paragraph (i).
7. I note that the appellant has confirmed no objections from their neighbours, and appreciate that they have sought to follow guidance from the Council and keep within the limitations of the GPDO. I note the appellant's intention to complete the single storey element of the proposal first, however that intention appears to have changed given the construction work underway on site. Therefore I find that it has not been demonstrated that the proposal would be permitted development under Schedule 2, Part 1, Class A of the GPDO.

Conclusion

8. For the above reasons, and taking all other matters into consideration, I conclude the appeal should be dismissed.

Rachel Hall

INSPECTOR