



Appeal Decision

Site visit made on 15 March 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2022

Appeal Ref: APP/Z5630/W/21/3277433

Willow Court, Cambridge Road, Kingston upon Thames KT1 3LR

- 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 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr M Moore, Premier Ground Rents No. 4 Ltd against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 21/00419/PACND, dated 8 February 2021, was refused by notice dated 13 April 2021.
 - The development proposed is 'Erection of an additional floor to an existing block of flats to create 2no. self-contained residential units with provision of additional 4 no. cycle bays'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development proposed from the decision notice for the banner heading above, as this is a more comprehensive description than that provided in the application form and has been relied upon by the appellant in the appeal form.
3. Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) authorises new dwellinghouses on detached blocks of flats, subject to limitations and conditions. Paragraph A.1. of Class A sets out the relevant limitations, or circumstances when development would not be permitted, and Paragraph A.2. of Class A sets out the relevant conditions for development to be permitted.
4. The limitation set out at Paragraph A.1.(c) of Class A states that development will not be permitted where the building was constructed before 1 July 1948, or after 5 March 2018. Paragraph A.2.(1)(e) of Class A states that development is permitted subject to the condition that before beginning development, the developer must apply to the local planning authority for prior approval as to the external appearance of the building.
5. Paragraph B of Part 20 sets out the procedure for prior approval applications, with Paragraph B.(3) clarifying that applications may be refused where the proposed development does not comply with, or insufficient information has been provided to enable it to be established whether the proposed

development complies with, any conditions, limitations or restrictions applicable to the proposed development.

Main Issues

6. Taking the above into account, the main issues are: (i) whether the proposal can be permitted development, with specific regard to whether the building was constructed before 1 July 1948; and (ii) if the proposal can be permitted development, whether prior approval as to the external appearance of the building is required.

Reasons

7. The building, Willow Court, is a purpose-built, detached block of flats which has previously been substantially extended. The appellant claims the building was constructed between 1 July 1948 and 5 March 2018. No evidence was submitted to support this claim as part of the application and the Council's historic mapping records indicated the building was constructed at some point between 1932 and 1956.
8. As part of the appeal the appellant has submitted a copy of an extract of an Ordnance Survey map dated 1949 – 1950 ('the OS map') which does not show the building, and a copy of an extract of an Ordnance Survey map dated 1955 which shows the building. These would appear to indicate the building was constructed at some point between 1949 and 1955. The Council has submitted a copy of an aerial photograph dated 1946 which shows the building, and therefore contradicts the OS map.
9. Ordnance Survey maps are often used as title plans, conveyancing plans and as evidence in boundary disputes and litigation, but some editions are not always accurate and do not always show whether buildings existed at a certain point in time. In contrast, aerial photographs can be more reliable in showing a snapshot of a moment in time. It therefore appears that either the content and/or date range of the OS map is inaccurate, or the date of the aerial photograph is inaccurate.
10. The Council has not provided the source for the aerial photograph, the exact date on which it was taken, or any further information to verify their claim that it was taken in 1946. However, this does not mean it should be disregarded. It forms one of a series of historic aerial images, and although I have not been provided with copies of later records, I note the next aerial image in the series is dated 1949. It is possible that there are inaccuracies in the Council's dating of its historic records, but I consider it unlikely that errors would have been made in dating a post-July 1948 photograph as a 1946 photograph.
11. If I were to accept the date range and content of the OS map as accurate, that would mean the aerial photograph must have been taken at some point during or after 1949. This would be a significant error in the labelling of the Council's historic aerial images, considering the next historic aerial image is dated 1949, and would exceed the small margin for error I would reasonably expect in the dating of those records.
12. Although the OS map has been assigned a broad date range, I see no reason to doubt the accuracy of that date range. However, as with the aerial photograph, I have not been provided with the full information concerning how this edition

of the OS map was produced. As such, there is no clarification of the degree of accuracy that should be assigned to the content of the OS map.

13. Taking all of the above into account and based on the information presented, the aerial photograph and the date it has been assigned in the Council's historic records provides me with sufficient doubt as to the accuracy of the content of the OS map. Therefore, I cannot establish whether the building was constructed before or after 1 July 1948
14. The building was substantially extended in 2015. For this reason, it is also claimed that irrespective of whether the original building was constructed before or after 1 July 1948, the building as it exists today was not completed, and thus constructed, until the completion of its extensions in 2015. I am unconvinced by this reasoning which relies on a distinction between 'the original building' and 'the appeal building' as two separate entities.
15. Based on the evidence before me, the building, Willow Court, was constructed and completed as a purpose-built, detached block of flats at some point in the twentieth century, and it was extended in 2015. Willow Court did not cease to exist once it was extended, and the completion of its substantial extensions did not mark the completion of its construction. The evidence does not demonstrate the building was constructed in 2015.
16. The onus is on the appellant to demonstrate the proposal would accord with the criteria of Class A and in light of the Council's aerial photograph I am unable to establish whether the building was constructed before or after 1 July 1948. The OS map and other information presented do not provide reasonable certainty in this regard due to the potential inconsistencies in the historic mapping of buildings, which have not been clarified in the case of the OS map.
17. Therefore, insufficient information has been provided to allow me to establish whether the proposed development would comply with the limitation set out at Paragraph A.1.(c) of Class A, and I am not convinced the proposal can be permitted development.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

L Douglas

INSPECTOR