



Appeal Decision

Site visit made on 15 June 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2022

Appeal Ref: APP/N5090/W/21/3282117

68 Burleigh Gardens, London N14 5AG

- 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 Tony Ramlakhan against the decision of the Council of the London Borough of Barnet.
- The application Ref 21/3981/PNH, dated 19 July 2021, was refused by notice dated 23 August 2021.
- The development proposed was described as '*The proposed single storey rear extension was submitted Via the larger homes extension application to replace any existing extensions*'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application to the Council (from which this appeal derives) was made as an application to determine if prior approval was required for a proposed larger home extension. It is clear that the Council determined the application as such. However, this appeal was submitted on a 'certificate of lawful use or development appeal form' wherein it was stated that the application was made under section 192¹. I have carefully considered the nature of the submissions and the auspices under which the application was submitted and I am satisfied that the appeal should proceed under the provisions set out in the banner heading above. I have determined the appeal accordingly.

Background and Main Issue

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter, 'the Order') grants permission for the enlargement, improvement or other alteration of a dwellinghouse. Paragraph A.1. of the Order sets out a range of circumstances in which development is not permitted by Class A. Of these, paragraph A.1.(j) states that development will not be permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would, amongst other factors, have a width greater than half the width of the original dwellinghouse.
4. Additionally, where development would exceed the limits set out in paragraph A.1.(f) but is permitted by Class A.1.(g), as in this instance, paragraph A.4.(2) requires the submission to the local planning authority of a range of

¹ Of the Town and Country Planning Act (1990) (as amended)

- information before the development begins. Paragraph A.4.(10) states that development must not begin before the occurrence of one of three events; in this instance the receipt by the developer of written notice of the local planning authority (or subsequently an Inspector at appeal) giving prior approval.
5. This appeal is against the Council's refusal of prior approval for the proposal. The reason given being that the enlarged part of the dwellinghouse would extend beyond a wall forming the side elevation of the original dwellinghouse and would have a width greater than half the width of that dwellinghouse.
 6. However, at the time at which I visited the site building works were on going at the rear of the property. Upon close examination of the submitted plans and of what I observed during my visit, what had been built very closely resembled that for which prior approval was sought.
 7. It is a requirement of paragraph A.4(2) of the Order that the relevant information required in the prior approval application is provided to the local planning authority prior to beginning development. It follows that where the application is subsequently considered at appeal that such matters must be considered prior to beginning development. The Council make no explicit mention in their submission as to whether or not, at the time of their determination, they considered the matter of whether the works on the proposed extension had commenced. The appellant's initial application form stated dates that it was intended that works would start and finish, but there was no indication that works had, at that time (or indeed since) commenced.
 8. Prior approval, as the name suggests and as references throughout the relevant section of the Order reaffirm by referring to 'proposed development', cannot be granted in respect of works that have already been commenced or, as in this instance, appear to have progressed to a relatively advanced stage. For the reasons I have set out I consider it to be the case that the extension to which the appeal relates had already progressed to a relatively advanced stage. The application does not therefore comply with the provisions of paragraph A.4(2) of Class A, Part 1, Schedule 2 of the Order and an appeal in these circumstances, where development has commenced and progressed to a relatively advanced stage, cannot succeed.
 9. This is not a matter that can be remedied through the appeal process and, as such, I have not considered further the question of what constitutes a side elevation of the original dwelling for the purposes of paragraph A.1(j) of the Order. Nor have I considered whether, on its merits, prior approval should be given for the proposal. It is open to the appellant to make an application, as provided for by section 73A of the Town and Country Planning Act 1990 (as amended), for development carried out before the date of the application, and any such application would be unaffected by my determination of this appeal.

Conclusion

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

G Robbie

INSPECTOR