



Appeal Decision

Site visit made on 20 June 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/D1590/D/21/3272390

66 Willingale Way, Thorpe Bay SS1 3SN

- 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 (as amended).
 - The appeal is made by Mr Mustafa Ahmed against the decision of Southend-on-Sea Borough Council.
 - The application Ref 20/02068/GPDE, dated 2 December 2020, was refused by notice dated 11 January 2021.
 - The development is described as “proposed single storey rear extension would measure 6 meters in depth, by 16 meters in width and have a height of 3.1 metres”.
 - This decision supersedes that issued on 4 March 2022 (the previous decision). That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the decision on the appeal was quashed by order of the High Court, the Council has subsequently granted planning permission¹ for extensions to the host dwelling that incorporate a single storey rear extension projecting 6m from its rear elevation.
3. At the time of my site visit, I saw a single storey rear extension had been constructed up to eaves height. Therefore, the main parties were given an opportunity to comment on this matter in the interests of natural justice and were directed to the judgement in *Winters v SSCLG & Havering LBC* [2017] EWHC 357 (Admin). The main parties have therefore not been prejudiced.
4. The appellant has confirmed that the ground floor extension subject to the prior approval application was approved under these planning permissions and that construction is almost complete. I have determined the appeal on this basis.

Main Issue

5. The main issue is whether the proposal is permitted development under the above Order.

¹ Planning References 22/01536/FULH, 23/00009/FULH and 23/00562/FULH

Reasons

6. Having regard to the appellant's additional evidence, prior approval cannot be granted for development that has already begun, whether or not it is wholly or partially completed². I therefore conclude that the proposed extension is not permitted under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
7. As the proposal does not constitute permitted development, I have no need to consider the amenity of adjoining premises.

Conclusion

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

A Berry

INSPECTOR

² Winters v SSCLG & Havering LBC [2017] EWHC 357 (Admin)