



Appeal Decision

Site visit made on 30 January 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2024

Appeal Ref: APP/F5540/W/23/3326324

Amwell House, The Woodlands, Isleworth, Hounslow TW7 6NZ

- 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 20, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr P Corcoran of Jack White Enterprises Ltd against the decision of the Council for the London Borough of Hounslow.
 - The application Ref 01231/B/PA1, dated 30 March 2023, was refused by notice dated 17 May 2023.
 - The development proposed is to add an additional storey to create 3 no. apartments following the layout of the floors below.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023. The parts of the Framework most relevant to this appeal have not been significantly amended. However, the Framework now contains an interpretation of mansard roof¹, but as my decision does not turn on the definition of a mansard, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.
4. The principle of the development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. However, in determining applications for prior approval, paragraph B.(15) of Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires the Local Planning Authority to take into account any representations made to them as a result of any consultation or publicity, and to have regard to the Framework insofar as it is relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.
5. Paragraph A.1. of Class A of the GPDO sets out the relevant limitations, or circumstances when development would not be permitted, and Paragraph A.2.

¹ Annex 2: Glossary of the Framework

sets out the relevant conditions for development to be permitted. The limitations set out at Paragraph A.1.(b) and (c) of Class A states that development will not be permitted where the building is less than 3 storeys in height and was constructed before 1 July 1948 or after 5 March 2018 respectively.

Main Issues

6. 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 whether the building is less than 3 storeys in height; and (ii) if the proposal can be permitted development, whether prior approval is required.

Reasons

Whether or not the proposal would be permitted development

7. Paragraph A.1.(c) states that development is not permitted by Class A if the building was constructed before 1st July 1948, or after 5th March 2018. The submitted evidence shows that a building has existed at the appeal site for a considerable time, pre-dating 1948 with photos showing the original property as a two-storey building with a low-pitched hipped roof. The planning history highlights that in 1975 planning permission² was granted at appeal³ for the 'extension of Amwell, The Woodlands, Woodlands Road, Isleworth, so as to provide 9 flats with garages at the rear.' From the evidence before me, the works were undertaken in 1976.
8. The consented scheme resembles Amwell as it currently stands, a building comprising 9 residential flats over 3 floors. The ground and the first floors are clearly defined with a rendered finish on the external walls, with the second floor incorporating a mansard style, which provides a hung tile finish as its external material with a flat roof above. Whilst the existing property may be materially different in visual terms to the two-storey building that existed prior to the consented works, based on the evidence before me, a building has stood at the appeal site since before 1 July 1948.
9. There is no dispute that the building existed prior to this date, and the appellant suggests that it is possible that some of the original building fabric was retained in the new construction, albeit that the permitted scheme and existing building no longer resemble that of the original. Be that as it may, the building of Amwell did not cease to exist once the permission was granted and the building extended.
10. I have been presented with little evidence with respect to the actual construction and demolition works required at the site as part of the consented scheme. However, both the Inspectors decision⁴ and the 1975 officers report⁵ refer to the extensions and alterations to Amwell, rather than the demolition of the existing and rebuild of a new building.
11. Whilst the appellant considers that the description of the works as an 'extension' to the property understates the nature and extent of the consented works, the development has nevertheless only been described as 'extensions'

² London Borough of Hounslow Planning Ref: 1231/B/P.1

³ PINS Ref: T/APP/4419/72/1069/G6

⁴ Appendix 3 – Appellants Statement of Case

⁵ Appendix 2 – Councils Statement of Case

to Amwell. Whilst I find that extensive works to Amwell were undertaken, from the evidence supplied internal details such as the positioning of walls, chimney stacks and the staircase along with the fenestration, particularly on the front elevation, remain akin to the positioning prior to the consented works being undertaken. Thus, in this case the development cannot be considered permitted development under Schedule 2, Part 20, Class A of the GPDO as the building (albeit extended) was constructed before 1st July 1948.

12. Under paragraph A.1(b) development is not permitted by Class A of the GPDO if, above ground level, the building is less than 3 storeys in height. As defined in paragraph C.(2)(b), a 'storey' does not include any accommodation within the roof of a building, whether comprising part of the original building or created by a subsequent addition or alteration. However, there is no such interpretation of 'roof' within the GPDO. Where no planning interpretation exists, it is standard practice to use the common understanding of the word as taken as the definition. As such, the Oxford English Dictionary defines a roof as 'the external upper covering of a house or other building'.
13. As stated above, the consented scheme included the extensions to Amwell. Part of the extensions described in the 1975 officer report included reference to a 'new third storey'. Furthermore, the 1975 officer report also highlighted that the 'works would include the removal of the existing pitched roof and its replacement by a mansard roof to allow for second floor accommodation'.
14. From the information before me, the consented scheme provided an additional third floor as part of the overall extensions and alterations of Amwell. This structure could not be considered a loft conversion nor an attic, given the reference to the removal of the pitched roof in the 1975 officer report and its reference as a new storey. As such, the new storey at the third floor whilst having a mansard style appearance was constructed under a flat roof. It is this flat roof which forms 'the external upper covering' of the building and contains limited volume and thus this formed the roof on the third floor of the subsequent building.
15. Given the approved scheme consisted of the removal of a pitched roof and replacement with a 'new third storey' this differs from the appeal referenced by parties at Luca Court⁶ in Sutton which consisted of a purpose-built floor within a hipped roofspace. However, this case draws more similarities with the appeal⁷ at 143 Brigstock Road in Croydon, particularly from a visual perspective, given that both buildings contain 9 flats with a vertical tile hung appearance at the third-floor level. I acknowledge that the mansard style third floor at the Brigstock Road scheme was more of an aesthetic choice, as the hung tiles covered an existing structural wall. However, as with the Brigstock Road scheme the visual intention of this building is for the additional third storey to appear as a mansard style with a flat roof above. Consequently, for these reasons it would not constitute accommodation within the roof-space of the building in this case.
16. I therefore conclude that whilst the proposed development could be a building that is not less than three storeys, it has not been established that the proposed development would comply with the limitation set out at Paragraph

⁶ PINS Ref: APP/P5870/W/21/3280844

⁷ PINS Ref: APP/L5240/W/22/3309977

A.1.(c). Consequently, the proposal does not amount to permitted development under Schedule 2, Part 20, Class A of the GPDO.

Prior approval

17. Given my findings in relation to the main issues above, the proposal would not be permitted development and subsequently I do not need to consider the prior approval matters as it would not alter the outcome of my decision.

Other matters

18. The parties have drawn my attention to several other appeal decisions⁸ which have been dismissed in respect to additional storeys which applied for prior approval, under Schedule 2, Part 20, Classes A and AA of the GPDO. Whilst there appear to be some similarities, such as the development types, I do not have the full details of these schemes before me. Consequently, I do not consider the examples directly comparable to the scheme subject to this appeal, which I have assessed on its own merits. As such, I attach little weight to these decisions.

Conclusion

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

Robert Naylor

INSPECTOR

⁸ PINS Refs: APP/J0350/W/22/3298114, APP/Z5630/W/21/3277433 and APP/K5600/W/21/3281734