



Appeal Decisions

Site visit made on 29 February 2024

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal A Ref: APP/P5870/D/23/3325781

31 Gilhams Avenue, Banstead, Sutton SM7 1QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Brian McCloskey against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/00674.
 - The development proposed is the erection of an additional storey to an existing dwelling house.
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Appeal B Ref: APP/P5870/D/23/3325777

31 Gilhams Avenue, Banstead, Sutton SM7 1QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Brian McCloskey against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2023/00326.
 - The development proposed is the erection of an additional storey to an existing dwelling house.
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Decisions

1. Appeals A and B are dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issue in these cases are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
3. At the time of my site visit, building works were in progress at the appeal site. These works included the construction of a single storey extension to the rear and the removal of the whole of the main hipped roof of the bungalow. I sought confirmation from the main parties about the planning history of the site as it is presented on the Council's website. Whilst the Appellant confirmed their opinion on the accuracy of the planning history the Council subsequently

indicated that a further two applications¹ were associated with the property. I am satisfied that neither of those additional two applications are material to my consideration of the appeal. However, other applications and decisions have some relevance to the appeal, and I shall return to this matter later.

4. Under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO² planning permission is granted for the enlargement of a dwellinghouse by construction of additional storeys. In the case of dwellinghouses consisting of one storey, this permitted development allowance is limited to the construction of one additional storey immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.
5. Paragraph AA.2(3) of Part 1, Class AA of the GPDO requires, as a condition of the permission, that the prior approval of the local planning authority be sought for the matters listed in that paragraph. The Council's reasons for refusal on both appeals express their objection to the effect of the proposals on the outlook from a neighbouring dwelling, 33 Gilhams Avenue. Additionally, for Appeal B, the Council's first reason for refusal indicates that it considers the proposed additional storey would not be constructed on the principal part of the dwellinghouse, and thereby fails to meet the requirements given at Paragraph AA.1.(i) of Part 1, Class AA of the GPDO.
6. The procedure for applications for prior approval is set out in the GPDO. Paragraph AA.3.(13) of Part 1, Class AA of the GPDO requires that the development must not begin before the receipt by the applicant from the local planning authority of a written notice giving their prior approval.

Main Issue

7. The main issue is whether the proposals are permitted development having regard to Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO.

Reasons

8. The proposals involve the construction of an additional storey to the appeal property, a detached bungalow. The evidence before me, the information made publicly available on the Council's online Planning Register, and the responses to my request for clarification regarding the planning history of the appeal site, confirms the status of, and decisions made by the Council on several previous applications, including those made relatively recently.
9. The recent decisions made by the Council include confirmation³ that the erection of a 7.6 metre single-storey rear extension would not require the prior approval of the local planning authority under the GPDO. From the information I have seen, and from my observations on site, the 7.6 metre rear extension would appear to be that which was under construction at the time of my visit. Subsequent to that decision, the Council granted a 'Lawful Development Certificate for a Proposed Use or Development'⁴ for development described in

¹ **SUT/19256** Land At Saxons Gilhams Avenue Banstead SM7 1QL - The proposed layout of seven building plots. (Nos 19,21,23,31,33,35,37); and **SUT/20165** Plot D Cul De Sac Off Gilhams Road Banstead SM7 1QL - The erection of a detached bungalow and private garage.

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

³ Council Ref. DM2023/00677 dated 31 May 2023.

⁴ Council Ref. DM2023/01139 dated 18 September 2023

the associated application as 'A Hip to gable roof. Erection of a dormer over the rear slope'.

10. Having regard to the information provided to me, and the recent planning history of the site, apart from both appeals currently before me, I have seen nothing to demonstrate that any of the proposals described in the planning history would involve or necessitate the removal of the whole of the main roof of the bungalow. It therefore seems to me, on the balance of probability, that the proposals the subject of both appeals before me have commenced.
11. That being the case, both proposals fail to meet the requirements set out at Paragraph AA.3.(13) of Part 1, Class AA of the GPDO. Accordingly, given that development has already begun, prior approval cannot be given, and I find that the proposals are not permitted development having regard to Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO. I therefore have no reason to consider further the Council's reason for refusing prior approval in respect of the effect of the proposals on the outlook from 33 Gilhams Avenue, nor is it necessary for me to consider further the Council's first reason for refusal in respect of Appeal B given my conclusions on the main issue.

Other Matters

12. I note that concerns have been expressed in representations made in respect of the proposal the subject of Appeal B. However, given my findings as above, any further consideration of those matters would not affect my conclusions on the main issue. The same also applies to any other planning merits of the schemes which, having regard to the conditions and limitations set out in Part 1, Class AA of the GPDO, do not fall to be considered as part of these particular appeals.

Conclusion

13. For the reasons given above, both appeals are dismissed.

David English

INSPECTOR