Planning Inspectorate

Appeal Decision

Site visit made on 18 November 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/Z5630/D/24/3340200
14 Geneva Road, Kingston upon Thames, Greater London KT1 2TW

- 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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Nicholas Waring against the decision of the Council of the Royal Borough of Kingston Upon Thames.
- The application Ref is 23/03161/PAEXT.
- The development proposed is Ground floor single-storey rear extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development provided on the original planning application form.

3. 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 GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.

4. The appellant has not contested that the proposal would conflict with various paragraphs of Part 1 Class A, These are: Paragraph A.1 (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres; A.1 (k)(i) it would include the construction or provision of a verandah, balcony or raised platform; and A.3 (a) the materials used in any exterior are not of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Although the appellant tried to amend the proposal to address these limitations and conditions, I have no amended details before me. I must determine this appeal on the information considered by the Council and my observations.

5. There is no dispute that the development would have a width greater than half the width of the original dwellinghouse. The main issue of contention is whether the proposal would extend beyond a wall forming a side elevation of the original dwellinghouse contrary to the limitation within A.1 (j)(iii) of Part 1 Class A. However, at my site visit construction works related to the appeal proposal had been carried out. The rear bay window had been removed and side walls, and roof trusses had been erected.

Main Issue

6. The main issue is whether the proposal would be permitted development, with particular regard to whether prior approval was made before beginning the development as required by Schedule 2, Part 1, Class A Paragraph A.4 (10)(b).

Reasons

7. Paragraph A.4 (10)(b) of Part 1 Class A of the GPDO states the development must not begin before the local planning authority provides written notice giving their prior approval. This is effectively a pre-condition, and development will not benefit from permitted development rights if this has not occurred.

8. The rear bay window had been removed and the building had therefore been altered, the host building was open to the elements. Other development as referred to above had also been undertaken. Although the extension was far from complete, the development under construction appeared very similar in form, scale and position to the prior approval proposal even though all of the proposed walling had not been removed. Although the Council has provided information relating to the site history[1] and I can see an extension was approved, I have not been provided with plans or the decision notices of this later approval.

9. Even if the above is not the case and the development under construction is not exactly the same, I must determine the appeal on the basis of the submitted drawings. The plans clearly state the bay window is to be removed and also show this. Whether or not removal of the bay window required planning permission or is part of another scheme, as the removal of the bay window has already taken place, the development applied for under this prior approval has already commenced.

10. For the above reason, I conclude that the extension would not accord with limitation A.4 (10)(b) of Part 1 of Class A. Consequently, the proposal would not comply with the conditions, limitations, and restrictions applicable to development permitted under Part 1, Class A, Schedule 2 of the GPDO. Therefore, the development does not constitute permitted development under Class A.

11. As I have reached this conclusion, it is not within my remit for this appeal, or necessary for me to consider whether the proposed development would be acceptable with regards to the other criteria and limitations of Class A. I have no alternative other than to dismiss the appeal.

Conclusion

12. For the reasons given above, I conclude that the appeal is dismissed.

K Williams

INSPECTOR

[1] Council Ref: 23/03555/HOU Erection of single storey rear extension