
Appeal Decision

Site visit made on 1 November 2017

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th November 2017

Appeal Ref: APP/Q1445/D/17/3182969
171 Elm Grove, Brighton BN2 3PZ

- 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, Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Oliver Dorman against the decision of Brighton and Hove City Council.
 - The application Ref BH2017/01929, dated 2 June 2017, was refused by notice dated 18 July 2017.
 - The development proposed is a single storey extension to rear with flat roof.
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of Article 3 and Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a single storey extension to rear with flat roof at 171 Elm Grove, Brighton BN2 3PZ in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO.

Application for Costs

2. An application for the award of costs was made by the appellant against the Council. This application is the subject of a separate decision.

Procedural Matter

3. The Council's refusal to grant prior approval was on the basis that the appellant had failed to provide sufficient information to determine whether the proposal was permitted development, specifically that floor plans had not been provided. The appellant confirmed the use to which the proposed extension would be made through additional plans and the appeal statement. Nevertheless, my determination of the appeal is on the basis of the material originally submitted on which the Council was notified and neighbouring occupiers were consulted in the interest of fairness to all parties.

Reasons

4. The appeal property is a mid-terrace Victorian building with accommodation over four floors comprising eight single occupancy bedrooms. Planning
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- permission was granted on appeal¹ in May 2016 for the change of use of the property to a sui generis House in Multiple Occupation (HMO).
5. An application was made to determine whether prior approval was required for a proposed larger home extension under Article 3, Schedule 2, Part 1, Class A of the GDPO. The proposed extension exceeds the dimensions allowed under Class A.1(f) but would be within the requirements of Class A.1(g). Except in relation to the use, the Council did not indicate that the proposal would not meet the other requirements of Class A.1 and I share that view.
 6. Paragraph A.4 sets out those conditions which must be met for schemes which exceed the scope of A.1(f) but are allowed by A.1(g). The Council confirmed that the requirements of A.4 (2) (a) had been met.
 7. Sub-paragraph A.4 (2) (b) requires the developer to provide to the local planning authority a plan indicating the site and showing the proposed development. Paragraph A.4 (3) states that the local planning authority may refuse an application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, *'the conditions, limitations or restrictions applicable to development permitted by Class A...allowed by paragraph A.1(g)'*.
 8. The appellant argued that the GDPO does not require floor plans to show the internal layout in order for prior approval to be granted. Moreover, sub-paragraph A.4 (8) indicates that the local planning authority may require the developer to submit such further information regarding the proposed development as the authority may reasonably require in order to determine the application.
 9. A previous application seeking prior approval for a similar single storey rear extension was refused but the officer report stated that as permission had been granted for the change of use to a sui generis HMO, the existing use would not be changed as a result of the proposed development.
 10. The existing use of the property is a dwellinghouse within the meaning of Article 2 (1) of the GDPO which neither party has contested. I also find that within the application form and block plan sufficient information was provided according to the requirements of A.4 (2) (a) to confirm the proposed use. Moreover, taking account of the Council's earlier view that as a sui generis HMO the proposal would not result in a change of use I am satisfied that the proposal would comply with the requirements of Class A in terms of its use. Consequently the question of whether a material change of use which required planning permission would occur is a separate matter which it is not necessary to consider at this stage.
 11. Under sub-paragraph A.4 (7) adjoining owners /occupiers were consulted by the Council and no objections were received. On this basis prior approval is not required and therefore it is not possible to impose planning conditions.

¹ APP/Q1445/W/16/3142291

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

Kevin Gleeson

INSPECTOR

