



Appeal Decision

Site visit made on 24 August 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2021

Appeal Ref: APP/Q5300/W/21/3267658

Fairfax House, 64 Palmers Road, London N11 1SL

- 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(1) and 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 GSA Building Services Ltd against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/03321/PRA, dated 14 October 2020, was refused by notice dated 9 December 2020.
 - The development proposed is construction of third floor to provide 2 additional self contained flats (1x1bed and 1x2bed) to the existing block of flats.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for construction of third floor to provide 2 additional self contained flats (1x1bed and 1x2bed) to the existing block of flats at Fairfax House, 64 Palmers Road, London N11 1SL in accordance with the application 20/03321/PRA, dated 14 October 2020, and the details submitted with it including plan Nos Location plan; 413713-9; 413713-10; 413713-11; and 413713-12.

Preliminary Matters

2. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.
3. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Class A permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, as well as certain associated works.
4. The Council's decision notice refers to Part 20 Class AA, which relates to the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building in commercial or mixed use. Nevertheless, the application was submitted pursuant to Part 20 Class A (new dwellinghouses on detached block of flats) and it is evident that the existing

building is a purpose-built block of flats without any commercial element. I have therefore considered the appeal on the basis of Part 20 Class A.

5. For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions establish a requirement for developers to apply to the local planning authority for a determination as to whether prior approval will be required in relation to a number of specified prior approval matters. In determining such an application, paragraph B (15) requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the Framework, so far as 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.

Main Issues

6. The main issues are:

- Whether the proposal would be permitted development under Schedule 2, Part 20, Class A of the GPDO; and,
- Whether the proposal would be granted planning permission by the GPDO with particular regard to the requirements of paragraph A.2(1)(f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses.

Permitted development

7. Having assessed the application, the Council is content that the development complies with the limitations in Part 20, Class A paragraph A.1 and I see no reason to take a different view. However, the Council states that the proposal is not permitted development because Condition 9 of the original planning permission (Ref. P14-00947PLA) removes the rights to install additional fenestrations.
8. Condition 9 states "*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any amending Order, no external windows or doors other than those indicated on the approved drawings shall be installed in the development hereby approved without the approval in writing of the local planning authority*". The reason for the condition is "*to safeguard the privacy of the occupiers of adjoining properties*".
9. Part 20, Class A, Paragraph A.2(1)(g) of the GPDO provides for the consideration of the impact of the proposed development on the amenity of the existing building and neighbouring premises, including overlooking and privacy, and I note that the Council has raised no objections in this regard. Furthermore, the new windows would only relate to the additional storey permitted under Part 20, Class A and would not be installed in the external walls of the previously approved development. For these reasons, I conclude that Condition 9 of planning permission Ref. P14-00947PLA would not restrict the proposal and it would be permitted development under Schedule 2, Part 20, Class A of the GPDO.

Natural light

10. The habitable rooms of the second floor flat would each be served by windows in the external walls. The bedrooms would have a single window and the lounge/kitchen would be served by 2 windows at the front and a single window to the side. Having regard to the position of the windows and the internal arrangement, I am satisfied that an acceptable level of natural light would be provided in the habitable rooms.
11. The bedrooms of the proposed third floor flats would each have windows. Given the position of the windows and the modest size of the rooms, an acceptable level of natural light would be provided. The lounge/kitchen of the proposed flats would be served by windows in the external walls, as well as rooflights, which would provide sufficient natural lighting. The appellant has submitted an internal daylight/sunlight report¹ with the appeal, which confirms that the levels of daylight and sunlight would exceed the BRE guidelines². I note the Council's concerns that the proposed units would be single aspect, however the habitable rooms would receive sufficient levels of natural light and there is no requirement in the GPDO for proposed dwellings to be dual aspect.
12. For these reasons, I conclude that the habitable rooms of the new dwellinghouses would be provided with adequate natural light.

Conditions

13. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class A of the GPDO is subject to conditions set out in paragraph A.2 of that Class. The Council has not recommended additional conditions to those at A.2 which specify that:
 - the development must be completed within a period of 3 years starting with the date prior approval is granted;
 - before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated;
 - the developer must notify the local planning authority of the completion of the development as soon as practicable after completion and the notification must be made in writing and include the name of the developer, the address or location of the development and the date of completion; and
 - any new dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

¹ Prepared by Daylight Sunlight Consulting dated 21 January 2021

² Building Research Establishment (BRE) guidelines – Site Layout Planning for Daylight and Sunlight: A guide to good practice (2011).

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

C Osgathorp

INSPECTOR