
Appeal Decision

Site Visit made on 23 August 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 17th September 2021

Appeal Ref: APP/P3610/W/20/3263592

Dormans Court, Cheam Road, Ewell, KT17 1QY

- 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 Khandys Ltd against the decision of Epsom and Ewell Borough Council.
 - The application Ref 20/01237/PDE, dated 27 August 2020, was refused by notice dated 23 October 2020.
 - The development proposed is prior notification of the proposal to create a two storey roof extension providing 6 no. of new flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for works for the construction of up to two additional storeys of new dwelling houses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats. This is subject to limitations and conditions set out in Paragraph A.1.; Paragraph A.2. and Paragraph B.
3. Where necessary the banner heading above reflects details from the appeal form as the application form submitted with the appeal is blank.

Main Issue

4. The main issue in this appeal is whether the proposed development would benefit from permitted development rights under Schedule 2 Part 20, Class A.

Reasons

5. Under Paragraph A.1.(c) development is not permitted if the building was constructed before 1 July 1948 or after 5 March 2018. Article 2(1) of the GPDO defines a building as including any part of the building. Paragraph A.2.(1) states that "Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority..." Paragraph B.(16) states that "The development must not begin before the receipt of a written notice giving their prior approval."

6. The building on site now is a four storey block. Due to the recent addition of the fourth storey, this proposal would fail the limitation under A.1(c) as part of the building was constructed after 5 March 2018. In the interests of fairness the Parties were given the opportunity to comment directly on this.
7. The letter dated 1 September 2021 confirms this appeal was submitted on 20 November 2020 and that at this stage the appellant decided, for commercial reasons, to implement the prior approval application proposal for the two storeys Ref 20/01237/PDE. The letter adds that the new fourth floor should therefore be viewed as the partial completion of that two-storey extension. Accordingly, as the development applied for has begun, the proposal fails the condition at Paragraph B.(16).
8. I therefore conclude that the proposal does not benefit from permitted development rights under Schedule 2 Part 20, Class A as it does not comply with all of the conditions and limitations. On this basis it is unnecessary and inappropriate for me to proceed to further consider whether prior approval should be granted.

Conclusion

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

S Harley

INSPECTOR