
Appeal Decision

Site visit made on 4 April 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2022

Appeal Ref: APP/P5870/W/21/3280844

Luca Court, 106A Carshalton Road, Sutton SM1 4RL

- 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 Country Planning (General Permitted Development) (England) Order 2015, as amended (the Order).
 - The appeal is made by Mr Carlo Gabriele against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/00319, dated 17 February 2021, was refused by notice dated 19 April 2021.
 - The development proposed is the erection of 2 additional floors to provide 4 self-contained residential units including internal alterations, erection of a single storey detached cycle store and provision of an additional refuse storage area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no description of the proposed development in the application form. The description in the banner above is taken from the Council's decision notice and is referred to in the appeal form.
3. Under Article 3(1) and Schedule 2, Part 20, Class A of the Order, planning permission is granted 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, together with associated engineering operations and works, subject to any relevant exception, limitation or condition.

Main Issues

4. The main issues are:
 - whether the proposal would be permitted development under Class A of the Order having regard to the requirements of paragraph A.1(b); and
 - if so, whether prior approval is required with regard to the conditions set out in paragraphs A.2(1)(a), (e) and (g).

Reasons

Permitted development

5. The existing building is a detached block of 6 flats. It has two flats in each of the conventional ground and first floors and two flats in a second floor within a

pitched roof. The proposal seeks to alter and extend this building by replacing both flats in the roof with two flats in a conventional second floor. A similar third and fourth floor would be added above, each with two flats. This would create a block of 10 flats, five storeys high with a flat roof.

6. Under paragraph A.1(b) development is not permitted by Class A if, above ground level, the building is less than 3 storeys in height. As defined in paragraph C.(2)(b), a 'storey' does not include any accommodation within the roof of a building, whether comprising part of the original building or created by a subsequent addition or alteration. As such, the existing building has 2 storeys — the ground and first floors, excluding the second floor roof accommodation. It is, therefore, less than 3 storeys in height above ground level.
7. Consequently, the proposal would not comply with paragraph A.1(b) and as a result it would not be permitted development under Class A of the Order.

Prior approval

8. The conditions set out in paragraph A.2(1)(a) relate to transport and highways impacts of the development, in (e) to the external appearance of the building and in (g) include impact on the amenity of neighbouring premises.
9. Given my finding in relation to the first main issue, I do not need to consider these prior approval matters as it would not alter the outcome of the appeal.

Conclusion

10. For the reasons set out above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR