



Appeal Decision

Site visit made on 9 August 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2022

Appeal Ref: APP/D5120/W/21/3285262

West Lodge, Russell Close, Bexleyheath DA7 4HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class ZA of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Fried against the decision of the Council of the London Borough of Bexley.
 - The application Ref 21/00589/PRIORB, dated 2 February 2021, was refused by notice dated 21 April 2021.
 - The development proposed is notification for prior approval of a proposed demolition of buildings and construction of one 3 storey residential block of 24 studio units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At my visit, I viewed the property in respect of 2 other appeals at the same site¹. These will be the subject of separate decisions.
3. In Part E of the appeal form a description of development has been given which accords with that set out in the Council's Decision Notice. This also reflects the description used in the appellant's written evidence. Accordingly, I have used this description in the heading above.

Background and Main Issues

4. The application for determination as to whether prior approval was required for the construction of a 3 storey block of flats was made under Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).
5. Paragraph ZA1 of the GPDO sets out that development is not permitted by Class ZA if the development contravenes a number of criteria. The Council considers that the proposal does not comply with, or that there is insufficient information to demonstrate compliance with, a number of those criteria.
6. Paragraph ZA.2(2) of the GPDO also requires that where any development under Class ZA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local

¹ APP/D5120/W/21/3285393 and APP/D5120/W/21/3285391

planning authority for the prior approval of the authority as to a number of matters. The Council considers that the proposal would not comply with, or that insufficient information has been submitted in relation to, conditions ZA.2(2) (a) highways, (d) design, (e) external appearance, (g) amenity, (h) noise, and (k) demolition. The Council also refers to condition ZA.2(6) which relates to the provision of a report for the management of the construction of the development.

7. On that basis, the main issues are:

- Whether the proposal would comply with the provisions of Schedule 2, Part 20, Class ZA, paragraph ZA1 of the GPDO; and
- If so, whether prior approval should be granted with regard to conditions relating to highways, design, external appearance, amenity, noise, demolition, and the management of construction.

Reasons

Compliance with GPDO

8. Paragraph ZA1(h) sets out that development is not permitted by Class ZA if any of the footprint of the new building falls outside the footprint of the old building. It is common ground that the footprint of the proposed residential block as submitted exceeds that of the building to be demolished. The appellant contends that the increase is very small and that they intended to make it the same size. However, based on the evidence before me, the footprint of the new building as submitted would fall outside the footprint of the old building, and the proposal would therefore fail to comply with paragraph ZA1(h) of the GPDO.
9. Paragraph ZA1(i) sets out that development is not permitted if any part of the exterior wall of the new building nearest to a highway is nearer to the highway than the part nearest the highway of the exterior wall nearest the highway of the old building. The Council's officer report states that insufficient information has been submitted to establish whether this criterion is complied with. Given the increase in the footprint of built development, there is a realistic possibility that the new building could be nearer to the highway. The appellant submits that this could have been easily rectified, however the plans before me are not sufficient to demonstrate compliance with paragraph ZA1(i).
10. Paragraph ZA1(l) specifies that development is not permitted if the new building has more storeys than the old building and the floor to ceiling height of any additional storey in the new building, measured internally, would at any point be greater than the lower of (i) the floor to ceiling height, measured internally, of any storey in the old building; or (ii) 3 metres. Sections through the existing building have not been provided and it is therefore not possible to determine if paragraph ZA1(l) has been complied with. The appellant submits that they can show that the proposal meets this condition, but there is not sufficient evidence before me to establish that that would be the case.
11. I am mindful that the increase in footprint in respect of paragraph ZA1(h) would be very limited, and that the issues in respect of other criteria are matters of detail. However, it is a matter of fact that the proposal before me would not meet the criteria of paragraph ZA1(h). I have also concluded that the appellant has not demonstrated compliance with the other criteria that are

in dispute. Therefore, based on the evidence before me, I conclude that the proposal would not comply with the provisions of Schedule 2, Part 20, Class ZA, paragraph ZA1 of the GPDO.

Prior Approval Conditions

12. I have concluded that the proposal would not comply with the provisions of paragraph ZA1 of the GPDO. It is therefore unnecessary and inappropriate for me to consider whether prior approval should be granted having regard to the conditions set out in paragraph ZA.2.

Other Matters

13. I note the frustrations expressed by the appellant in relation to the advice from the Council and the decision process leading up to this appeal. It is also apparent that the appellant was intending to rectify the outstanding issues. However, the GPDO is clear in the criteria that need to be met, and the Council states that the appellant was advised of these issues during a pre-application meeting. In any event, this is not a matter for this appeal which I have determined on the basis of the evidence before me.
14. The Council's Appeal Statement refers to a failure to provide a written statement in respect of heritage and archaeological considerations. However, the Council has previously stated that the proposal would not raise any issues in this regard. This reflects what I have seen and read, and I have therefore not considered this issue further.

Conclusion

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

David Cross

INSPECTOR