



Appeal Decision

Site visit made on 11 March 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th October 2022

Appeal Ref: APP/Y3615/W/21/3282695

Regal Court, Kings Road Guildford GU1 4JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 Lorienwood Limited against Guildford Borough Council.
 - The application 21/W/00017 is dated 29 January 2021.
 - The development proposed is described as 'proposed two storey pitched roofed extension above principal elevation to provide 16 additional 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), planning permission is granted for the construction of new dwellinghouses on detached blocks of flats subject to the limitations, conditions and restrictions set out in Part 20, and the requirement for the developer to apply for prior approval.
3. Where an application is made for prior approval for development that is allowed by paragraph A to Class A of Part 20, paragraph B.(3)(a) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with any conditions, limitations and restrictions specified in Part 20 as being applicable to the development in question.

Main Issues

4. The appeal was submitted due to the Council failing to make a decision within an agreed period of time. Based on my site visit and representations from the parties; I consider the main issues to be (i) whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted; and if the development is permitted, the effect of the proposal on (ii) the character and appearance of the host dwelling and (iii) the amenity of existing neighbouring occupiers.

Reasons

Permitted Development

5. Paragraph A to Class A of Part 20 states that development consisting of the construction of up to two additional storeys of new dwellinghouses above the topmost storey of an existing purpose built detached block of flats will constitute permitted development subject to any of the limitations, conditions or restrictions specified in Part 20.
6. This includes, among other things, paragraph A.1.(b) which states that development will not be permitted by Class A if above ground level the building is less than three storeys in height. As observed on my site visit the building is currently two storeys above ground level, such that it fails to accord with this paragraph.
7. In addition, paragraph A.1.(e) lists requirements on the floor to ceiling height of any additional storey proposed, while paragraph A.1.(j) sets out the permitted engineering operations. However, no information on these dimensions of the proposal, or the nature of the works to be undertaken, have been provided. As such, I do not have the information to conclude that the proposal would comply with these conditions.
8. Paragraph A.1.(n) states that development will not be permitted by Class A if it would extend beyond the curtilage of the existing building; be situated on land forward of a wall forming the principal elevation of the existing building; or be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building. Due to the limited information provided, it cannot be concluded with certainty that the proposal would accord with the requirements of this paragraph.
9. As such, the proposal fails the condition at Paragraph A.1.(b), and I have insufficient information to conclude it would satisfy the other conditions at A1.(e), (j), and (n). I therefore conclude that the proposal does not benefit from permitted development rights under Schedule 2 Part 20, Class A.

Character and Appearance, Living Conditions

10. As I have found above, the proposed development is not permitted development. As such, there is no requirement or need to assess it in light of paragraph A.2 of Class A to Part 20 and therefore no requirement to make a determination on the above matters raised in this case. This approach is consistent paragraph B.(3)(a) of Class A to Part 20.

Conclusion

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

C Rafferty

INSPECTOR