



Appeal Decision

Site visit made on 12 September 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/U5930/W/21/3280150

The Plains, 3 Crescent Road, Chingford, Essex E4 6AU

- 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 Mr Peter Walster of Millie Properties Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 211007, dated 6 April 2021, was refused by notice dated 7 June 2021.
 - The development proposed is the construction of a roof extension on a detached building in residential use to create a third floor providing 2 x 2-bedroom self-contained flats (Use Class C3) with two balconies to front elevation and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the Council's Decision Notice in the interests of clarity and brevity; the description contained on the application form contains considerable superfluous information.
3. 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 new dwellinghouses on detached blocks of flats subject to limitations and conditions.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 20, Class A of the GPDO.

Reasons

5. Prior approval applications such as this one must include specified information, including that listed at Schedule 2, Part 20, Class A, Paragraph B.(2)(c), which includes the proposed floorplans and elevations.
6. The Council's Decision Notice lists drawings 638/15B, 638/16B, 638/18 and 638/19, which show the proposed front elevation and side elevations of the appeal building and the proposed roof plan and 638/4G, which shows a floorplan of the proposed third floor. These drawings are not consistent with each other, the floorplan shows two balconies whereas the elevations do not.

7. The appellant has submitted a list of documents they say the Council considered in making their decision to refuse Prior Approval. This includes drawings 638/15B, 638/16B, 638/18 and 638/19, the same as the Council's Decision Notice, as well as drawing 638/4A. Drawing 638/4A was not in the submitted evidence and in their email to the Planning Inspectorate dated 24 August 2021, the appellant states that this reference is an error and the correct reference is 638/4G – as per the Council's Decision Notice.
8. This means that either the plan showing the balconies (638/4G) was inaccurate or the other drawings (638/15B, 638/16B, 638/18 and 638/19) were inaccurate. Consequently, the appeal proposal could not be constructed in accordance with these plan and elevation drawings.
9. I put this matter to the main parties and sought their views. The appellant accepted that the proposed floorplan was inconsistent with the proposed elevation drawings for the application and could not explain how this had occurred, whilst noting that this was not identified by the Council. The appellant also provided a copy of drawing 638/4A, which is consistent with the elevation drawings 638/15B, 638/16B, 638/18 and 638/19.
10. The Council also accepted the inconsistency with the submitted drawings upon which it had refused prior approval and stated that it was content for drawing 638/4A to be assessed for the purpose of the appeal.
11. Clearly mistakes were made in the submission of the application by the appellant and in the processing of the application by the Council. The appellant did not submit the floorplan and elevation drawings required by Schedule 2, Part 20, Class A, Paragraph B.(2)(c) and as a consequence their application was invalid and should not have been accepted by the Council.
12. Furthermore, Government guidance is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought¹.
13. In this case, given the inconsistencies, it is not clear to me what proposal the Council considered in refusing prior approval, and upon which interested people's views were sought. With reference to the Wheatcroft principles, I am not satisfied that interested people would not be disadvantaged by rejecting drawing 638/4G and accepting drawing 638/4A in its place.
14. For these reasons the proposal is not permitted development under Schedule 2, Part 20, Class A of the GPDO.

Conclusion

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

A Parkin

INSPECTOR

¹ Paragraph M.2.1, Procedural Guide: Planning Appeals – England (April 2022)