



Appeal Decision

Site visit made on 1 November 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2022.

Appeal Ref: APP/N5660/W/21/3287906

328 Clapham Road, Stockwell, London SW9 9AE

- 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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr B Crainey, SIMPLYLETTING.COM LTD, against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 21/01367/P20, dated 29 March 2021, was refused by notice dated 3 June 2021.
 - The development proposed is an upwards extension under the GPDO to construct x 4 additional flats under Schedule 2, Part 20, Class A of the GPDO.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal constitutes permitted development under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO);
 - if permitted development, whether prior approval should be granted having regard to the effect on the amenity of residents and the transport and highways impact of the development.

Reasons

Whether permitted development

3. Schedule 2, Part 20, Class A of the GPDO permits development consisting of works 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, as well as certain associated works, subject to a number of limitations, restrictions and conditions.
4. The appeal building is a part three, part four storey detached block of flats (above ground level). The existing topmost residential storey is therefore the top floor of the four storey part of the building. The proposed development is for two additional storeys, however this would be above both the three and four storey part of the building. It does not therefore qualify for the permitted development right under Schedule 2, Part 20, Class A of the GPDO.

5. Furthermore, paragraph A.1.(d) of Schedule 2, Part 20, Class A of the GPDO goes on to state that development is not permitted by Class A if the additional storeys are constructed other than on the principal part of the building. The interpretation of Part 20, at paragraph C.(1), confirms that “principal part” means the main part of the building excluding any front, side or rear extension of a lower height, whether this forms part of the original building or a subsequent addition.
6. In this case, the principal part of the appeal building is therefore the four storey section. As noted, the proposal would involve additional storeys above the lower, three storey part of the building thus it would fail to adhere to the limitation at paragraph A.1.(d).
7. Additionally, paragraph A.1.(e) states that development is not permitted by Class A if the floor to ceiling height of any additional storey, measured internally, would exceed the lower of (i) 3 metres; or (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building.
8. Paragraph B.(3)(b) of Schedule 2, Part 20, Class A of the GPDO confirms that applications may be refused where insufficient information has been provided to enable it to be established whether the proposed development complies with any conditions, limitations or restrictions applicable to the proposed development. Based on the submitted evidence, I am unable to accurately ascertain the internal floor to ceiling heights of the existing and proposed storeys and thus cannot determine whether the proposal satisfies the limitation in paragraph A.1.(e).
9. Given my findings above, there is no need to go on to consider the development against the conditions as set out in paragraph A.2 and the prior approval matters that are disputed between the main parties, as outlined in the main issues above.

Other Matter

10. It is important that I determine this appeal with regard to the GPDO in force at the date of the decision and not the date of the Council’s decision or when the application was made. The Council’s handling and processing of the application are not therefore matters for me within the context of this appeal.

Conclusion

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

H Ellison
INSPECTOR