



Appeal Decision

Site visit made on 10 November 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/G5180/W/22/3292714

Kentway Court, 1A Hayes Lane, Bromley BR2 9EA

- 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 GPDO).
 - The appeal is made by Mr G Kemal against the decision of London Borough of Bromley.
 - The application Ref 21/05368/NDFLAT, dated 19 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed is the construction of additional storey above existing building to provide 3 new flats (3 x 2 bedroom).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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, together with, amongst other things, engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses.
3. Development is not permitted by Class A if, amongst other things, the engineering operations that are reasonably necessary to construct the additional storeys and new dwellinghouses, would consist of engineering operations other than works within the existing curtilage of the building to, amongst other things, strengthen existing walls.
4. As detailed within the GPDO, development under Class A is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval. The local planning authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
5. The provisions of the GPDO require the local planning authority to assess the development proposed solely on the basis of a limited number of considerations. The Council consider that the works involved in the proposed development would exceed the limitations of Class A. The Council has also raised concerns in respect of the effect of the development upon the external

appearance of the building. I therefore consider these to be the main issues in the appeal.

Main Issues

6. The main issues are whether prior approval should be given, having particular regard to 1) the limitations of Class A, and 2) the resulting external appearance of the building.

Reasons

Whether the proposed development exceeds the limitations of Class A

7. The appeal property is a detached building comprising nine residential properties. The properties are spread over three floors, with the topmost floor being primarily located within the roof space of the property. The roof space is made up of several dormer windows and gable windows with half-hipped roofs. The roof is a crown type roof with distinctive slopes.
8. The proposed development would involve the removal of much of the existing roof with the resulting building having a vertical continuation over three storeys to accommodate the additional storey above which would be predominantly within a new roof space of a high identical design to the existing roof, albeit one storey higher.
9. The Council are of the view that these works exceed the limitations of Class A as they go beyond what is considered reasonably necessary engineering works. The appellant considers the works fall within the limitation.
10. In reference to works permitted under Class A.(a) of Part 20, the appellant is of the view that such works can be deemed to be 'engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses'. Even if I agreed that the works are 'engineering operations that are reasonably necessary' this is not, however, the sole factor that is required to be satisfied.
11. Paragraph A.1. of Part 20 outlines the circumstances where development is not permitted under Class A. One such instance is (j)(i) where the development under Class A.(a) would consist of engineering operations other than works within the existing curtilage of the building to strengthen existing walls. The works to the existing topmost floor involve the removal of the existing roof slopes and dormer windows, and replacement with new exterior vertical walls.
12. Although the floor plan of the existing topmost floor would be largely unchanged, the works that are proposed comprising the new outer walls to the existing topmost floor do not constitute the strengthening of existing walls. They go beyond what is permitted, that being a closed list of works.
13. It is explicit that what is permitted is 'up to two additional storeys of new dwellinghouses *immediately above the existing topmost* residential storey'. What Class A does not allow, however, is for the existing top floor to be removed and rebuilt, as there has to be an existing topmost storey to be built upon. The works would remove much of the existing topmost residential storey and thereby it would remove the right as there has to be an existing topmost storey to build upon.

14. Although the topmost floor will be existing prior to the commencement of development, it will not be the same part of the building above which all of the additional storey will be constructed. The additional storey will not therefore be constructed immediately above the existing topmost residential storey.
15. In this case, therefore, the removal and rebuilding of the existing roof, followed by an additional storey would not, when considered as a whole, be permitted development. Arguably the existence of paragraph A.1.(j) adds weight to this view, otherwise it would be superfluous.

External appearance of the building

16. Since I have concluded that the appeal proposal exceeds the limitations of development permitted under Class A, it is not now necessary to consider this further.

Conclusion

17. The proposed development would exceed the limitations of Class A. Therefore, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR