



Appeal Decision

Site visit made on 22 December 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/G2625/W/21/3285988

14A to 18D Cricket Ground Road, Norwich NR1 3BQ

- 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 Trott against the decision of Norwich City Council.
 - The application Ref 21/00716/PA, dated 19 May 2021, was refused by notice dated 29 July 2021.
 - The development proposed is creation of an additional storey on existing flats to create one new flat.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the banner heading, I have used the description of the proposal as set out in the Council's Decision Notice as this is more precise than the description provided within the application form.

Background and Main Issue

3. 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') permits the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey of a detached block of flats, subject to limitations and conditions.
4. Paragraph A.1. of the GPDO sets out the circumstances when development would not be permitted. In this regard, Paragraph A.1.(n) states that development is not permitted if it would be situated on land forward of a wall forming the principal elevation of the existing building.
5. In this context, the main issue is whether the proposal is permitted development with regard to the requirements of Schedule 2, Part 20, Class A.1.(n) of the GPDO.

Reasons

6. The appeal building is a mid-twentieth century three-storey block of flats located at the split of Cricket Ground Road where it diverges into two cul-de-sacs to the north and southeast. There is a near identical building to the north in a staggered arrangement which shares the same access, parking and refuse

- area. The space between the blocks is open and grassed with a small, gravelled area.
7. From Cricket Ground Road the visible elevations contain glazing and small balcony areas. From my observations, it is clear that the northwest elevation facing into the access and parking area is the principal elevation as this contains the main access route into the building and also the main architectural features of the building.
 8. A.(d) of Part 20, Class A allows for 'works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.' The limitation at A.1.(n) of Part 20, Class A sets out that development is not permitted by Class A if 'development under Class A.(d) would (i) extend beyond the curtilage of the existing building; (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building.
 9. The appeal submission includes drawing RS/4271/19/01 which depicts both the existing and proposed site. The development would involve both the removal of existing bollards and the introduction of new ones in order to both create and delineate the proposed parking area. The removal of the existing bollards, the laying out of the proposed spaces, and the installation of new bollards would clearly constitute 'works' for the purposes of A.(d) of Part 20. These would be positioned forward of a wall forming the principal elevation of the existing building, contrary to the requirements of A.1.(n)(ii).
 10. It has been put to me that the proposed parking area could be removed from the scheme by condition. However, the GPDO does not provide any specific authority for imposing additional conditions in relation to Part 20, Class A, beyond those set out under Paragraph A.2 or envisaged under Paragraph B.(18). In this regard, such a condition would not relate to the prior approval matters but would instead be intended to ensure that the proposal met the relevant qualifying criteria. I therefore have no ability to impose such a condition in this case.
 11. On the basis of the evidence before me, I find that the physical works would take place to create ancillary facilities namely 2 parking spaces and bollards as set out within A.(d) of Class A. As a result, based on my findings on the principal elevation of the building the proposal would fail to comply with the limitation at A.1(n)(ii) as the works would be situated on land forward of a wall forming the principal elevation of the existing building.
 12. The appellant has drawn my attention to an appeal¹ which considered "ancillary facilities" for the purposes of para A.1.(n). Whilst I do not have full details of this scheme, I note the example is for a lift shaft, which is materially different to the appeal proposal. Moreover, this Decision is not prescriptive about what is considered to be ancillary facilities and therefore does not preclude me from considering the creation of parking spaces and repositioning of the bollards as is the case with this appeal scheme. I have therefore come to my own view on the appeal proposal based on the information that is before me.

¹ APP/M5450/W/21/3272798

13. As a result, I conclude that the development would not constitute permitted development having particular regard to whether the requirements of Schedule 2, Part 20, Class A.1(n) of the GPDO would be met.

Other Matters

14. The Council has referred to the River Wensum SAC and The Broads SAC. However, as I am dismissing the appeal there is no need for me to consider the implications upon them because the scheme is unacceptable for other reasons.
15. In its report on the application, the Council raised concerns in relation to the prior approval matters at A.2(1)(e) and (g) which refer to the external appearance of the building and impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light. A range of further concerns have also been raised by interested parties. However, in light of my conclusion above, it is not necessary for me to go on to consider these matters further since it could not alter the outcome of the appeal

Conclusion

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

A Hickey

INSPECTOR