



Appeal Decision

Site visit made on 23 January 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/C5690/W/22/3298346

Vista Heights, 46/48 Duncombe Hill, London SE23 1QJ

- 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 Gurvits of Eagerstates Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/21/124695, dated 8 December 2021, was refused by notice dated 3 March 2022.
 - The development proposed is for 1no. additional storey with 3 x 2B4P flats, external appearance to match existing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have amended the description of development from the application form to remove superfluous words, in the banner heading above.
3. The name and address of the appellant on the appeal form is different to the name and address of the applicant on the planning application form. I sought clarification from the appellant regarding this situation and I have used the details provided in the banner heading above.
4. Parts of the application form and parts of the representations from interested parties were redacted on the submitted documents. I asked the Council to provide unredacted documents and I have had regard to these in determining this appeal.

Main Issue

5. The main issue is whether the proposed development would be 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).

Reasons

6. The proposed development would entail the construction of an additional storey onto an existing 4-storey block of flats, to create an additional three flats, together with associated ancillary works, including an extension to an existing building to create a bicycle store at the front of the building.

7. Paragraph A.1.(n)(ii) of Schedule 2, Part 20, Class A of the GPDO states that 'development is not permitted by Class A if...development under Class A.(d) would...be situated on land forward of a wall forming the principal elevation of the existing building.'
8. The Class A.(d) development referred to is '...any and all...works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.'
9. The existing ground floor plan¹ shows a bin store on the eastern side of the front forecourt of the building, with a floor area of 7m²; the proposed ground floor plan² shows this bin store would be converted into a bicycle store and extended towards the street, with an increased floor area of some 9m².
10. The position of the existing bin store is manifestly in front of the principal elevation of the building and means that the proposed extension to it would also be situated on land forward of a wall forming the principal elevation of the existing building.
11. The extension to the proposed bicycle store would also manifestly be works for the construction of storage or other ancillary facilities reasonably necessary to support the new dwellinghouses.
12. For these reasons, the proposed development would not be permitted under Schedule 2, Part 20, Class A of the GPDO.

Other Matters

13. The appellant's suggestion that this matter can be addressed by way of a condition is predicated upon the proposal being permitted development. As I have found the proposal would not be permitted development then conditions could not address this matter.
14. Similarly, as the proposal is not permitted development there is no need for me to consider the Council's other reasons for refusal. Even if I found both of the other reasons for refusal to be acceptable – and I make no comment in this regard – this would not allow prior approval to be granted because the proposal is not permitted development under the GPDO.

Conclusion

15. For the reasons given above, and taking into account all relevant matters, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR

¹ Ref. EX - P001

² Ref. PR - P001