



Appeal Decision

Site visit made on 16 February 2023

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Appeal Ref: APP/Z5630/W/22/3303031

59 The Avenue, Surbiton, Surrey KT5 8JL

- 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 Lorienwood Limited against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03768/PACND, dated 18 October 2021, was refused by notice dated 24 January 2022.
 - The development proposed is a two-storey pitched roofed extension above principal elevation to provide 4 additional flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 20, Class A of the GPDO planning permission is granted for new dwellinghouses on detached blocks of flats subject to relevant exceptions, limitations, and conditions.
3. Paragraph A to Part 20, Class A of the GPDO sets out as permitted development the following: *'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 related works.
4. Paragraph A.2(1) of Part 20, Class A of the GPDO requires, as a condition of the permission, that prior approval be sought for the matters listed in that paragraph. The Council's reasons for refusal express their objection to the proposed external appearance of the building, and to the adequacy of information provided in respect of the highways impact of the proposed development, impacts on the amenity of neighbouring premises, and in respect of compliance with the nationally described space standard.
5. Paragraph B(3) of Part 20 of the GPDO provides that the local planning authority may refuse an application for prior approval where it considers that the proposed development does not comply, or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the applicable conditions, limitations or restrictions. Paragraph B(14) of the same Part of the GPDO allows the local planning authority to request further information in respect of impacts and other matters, but it does not compel them to do so.

6. The appellant refers to additional information submitted in support of their appeal. However, having regard to the matters it seeks to address, the nature of representations made about the original application, and in the interests of natural justice, I have determined the appeal on the basis of the information provided in the application as it was originally made.
7. Article 3(9A) of the GPDO states that '*Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse— (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015*'. It is therefore necessary for me first to consider whether the proposal is permitted development before considering any other matters.

Main Issues

8. The main issue is whether the proposal is permitted development having regard to Article 3(9A) of the GPDO.

Reasons

9. The plans show a proposal to add two floors of additional accommodation above the existing block of flats. This would comprise two flats on each additional floor, and all flats would have two bedrooms. This being the case, to comply with the requirements of Article 3(9A) of the GPDO, in addition to demonstrating the necessary minimum gross internal floor area, at least one bedroom in each flat must have a minimum floor area of 11.5 sq.m.
10. Paragraph B.(2) of Part 20 of the GPDO sets out the information required to be submitted in an application for prior approval which includes at (2)(c) '*floor plans...indicating the total floor space in square metres of each dwellinghouse*'. While dimensioned plans were provided with the application for prior approval, and those plans showed floor areas in each room, they do not directly establish the total floorspace. Furthermore, the information available to me does not describe in precise terms the proposed floor to ceiling heights. Both measurements are required to properly interpret the nationally described space standard for new dwellings.
11. Notwithstanding this lack of information, having regard to the measurements and floor areas described on the plans (drawing No 1473_PRPL_104), none of the bedrooms in either of the two flats on the proposed third floor achieve the required minimum floor area. Accordingly, having regard to Article 3(9A) of the GPDO, the proposal is not permitted development. I therefore have no reason to consider further the Council's other reasons for refusing prior approval.

Conclusion

12. For the reasons given above the appeal is dismissed.

David English

INSPECTOR