



Appeal Decision

Site visit made on 24 February 2023

by S Edwards MA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/L5810/W/22/3304921

20 Popham Gardens, Lower Richmond Road, Richmond TW9 4LJ

- 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 Kings Oak Capital Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 22/1281/GPH01, dated 31 March 2022, was refused by notice dated 1 June 2022.
 - The development proposed is alterations to roof to form a single storey mansard to facilitate 2no 1-bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. Additional plans (P1046 EX01 Revision A - Existing Plans, P1046-PL101 Revisions C and E - Proposed Plans, P1046-PL103 Revision E - Proposed Site Plan and P1046-PL102 Revisions D and F - Proposed Elevations), which did not form part of the application determined by the Council, were submitted as part of this appeal. These are intended to provide clarifications on the existing roof form, the position of dormers, the location of cycle and bin storage, and floor to ceiling heights.
2. These drawings do not alter the nature of the development previously consulted upon and considered by the Council to make its decision. As such, I am satisfied that my consideration of these plans would not prejudice anyone's case in the appeal. I shall therefore determine the appeal on the basis of the submitted drawings, together with these additional plans.

Main Issues

3. The main issues are:
 - Whether the proposal would accord with the requirements of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO); and
 - If permitted development, whether prior approval should be granted, having particular regard to the effect of the proposal on:
 - (i) The external appearance of the building; and

(ii) The transport and highways impacts of the development.

Reasons

4. 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, subject to limitations and conditions.
5. As detailed within the GPDO¹, 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.
6. The appeal site comprises a three-storey purpose-built block of six flats set within a prominent corner plot at the junction between Marksbury Avenue and Lower Richmond Road. The Council considers that the proposal does not meet the relevant requirements of the GPDO, notably because it would include works to, rather than immediately above the topmost residential storey of the building, and has drawn my attention to a number of appeal decisions addressing this particular issue.
7. Whilst the appellant's submissions indicate that the vast majority of the existing roof comprises vacant attic space, it also includes part of the second-floor level of accommodation. As part of the proposal, the existing roof would be removed and replaced with a mansard. Several dormer windows and rooflights are also proposed to be constructed. In addition to the alterations described above, which are required for the creation of the additional flats, the appeal scheme includes works to the existing topmost residential storey, notably to increase the building's eaves height.
8. The proposed works would therefore not solely entail the construction of an additional storey immediately above the existing topmost residential storey, but would also affect the second-floor flats. The proposal would go beyond the engineering operations envisaged by the GPDO, which are restricted to works within the curtilage of the building to strengthen existing walls and foundations, as well as the installation and replacement of services².
9. Concerns have also been raised by the Council regarding the floor to ceiling height of the proposed flats. As set out in the GPDO, there are circumstances where development is not permitted by Class A, including where the floor to ceiling height of any additional storey, measured internally, would exceed the lower of 3 metres or the floor to ceiling height, measured internally, of any storey of the principal part of the existing building.
10. As shown on the proposed plans, it is clear that the floor to ceiling height of the proposed development would not exceed 3 metres. There are however discrepancies between the floor to ceiling heights shown on the plans respectively submitted by the Council and the appellant. I am therefore unable to ascertain, on the basis of the available evidence, whether the proposal would

¹ Part 20, Class A, paragraph A.2.

² Paragraph A.1(j).

remain lower than the floor to ceiling height, measured internally, of any storey of the principal part of the existing building.

11. Therefore, the proposal does not meet the requirements of the GPDO in relation to the engineering operations reasonably necessary to construct the additional storey. Furthermore, insufficient information has been provided by the developer to enable me to establish whether the proposal complies with the requirements of the GPDO relating to the floor to ceiling height of the storey of the existing building's principal part.
12. The development is therefore not granted planning permission by Schedule 2, Part 20, Class A of the GPDO. As the appeal scheme would not be permitted development, there is no need for me to consider the prior approval matters relating to the effect on the external appearance of the building and the transport and highways impacts of the proposal.

Conclusion

13. For the reasons detailed above, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR