



Appeal Decision

Site visit made on 7 September 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 20.10.2023

Appeal Ref: APP/E5900/W/22/3313024

52 Stainsby Road, Tower Hamlets, London, E14 6JZ

- 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 appeal is made by St John Developments Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01611, dated 9 August 2022, was refused by notice dated 11 October 2022.
 - The development proposed is an upward extension to create two additional floors of residential units.
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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 Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the development 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), subject to limitations and conditions.
3. Where an application is made for prior approval for development, the local planning authority may refuse the application 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 conditions, limitations or restrictions that are applicable to such permitted development.

Main Issue

4. The main issue is whether the proposed development would be granted planning permission by Schedule 2, Part 20, Class A of the GPDO, and if it would, then whether prior approval should be granted.

Reasons

5. The application site is a six-storey contemporary residential block of flats located on Stainsby Road, in a row of contemporary residential blocks which range from 4 to 10 storeys in height.

6. Criteria A.1 (o) (vii) of the GDPO states that development is not permitted by Class A if the land or site on which the building is located, is or forms part of land within 3 kilometres of the perimeter of an aerodrome.
7. The Parties do not agree on the precise distances of the appeal site from the aerodromes at Royal London Hospital and Skyports heliport. However, I see no reason to doubt the appellant's view that the appeal site is located some 2.897 km from the heliport. As such, it is within the 3 kilometres limit. For the purposes of the GDPO, limitations are expressed precisely, so are either met or not. The limitation at Criteria A.1 (o) (vii) is not met, and thus, development is not permitted.
8. Similarly matters such as the presence of other, taller, buildings (such as no 36 Stainsby Road), the contribution the proposed development would make to the supply of housing, and the grant of planning permission or allowing of appeals elsewhere, do not bear on the determination as to whether the limitations are met under the GDPO.
9. I have considered the appellant's comments regarding the Council's failure to comply with the procedure for prior approvals under Part 20 of the GDPO. This states that where the application relates to the impact on air traffic or defence assets, the local planning authority must consult any relevant operators of aerodromes, technical sites or defence assets and where appropriate the Civil Aviation Authority and the Secretary of State for Defence. There is no evidence before me that this consultation took place and as such, it would not be possible to grant prior approval in the absence of these organisations being properly consulted. However, this requirement to consult does not apply where the Council refuses an application under sub-paragraph B (3). In any event, due to the proposed development not meeting the limitations of the GDPO, there is no need for me to consider the other matters which require prior approval as the proposed development is unacceptable for other reasons.
10. For these reasons, the proposed development would not constitute permitted development in respect of Schedule 2, Part 20, Class A.
11. As considerations in relation to prior approval are a follow-on condition stage under paragraph A.2, they can therefore only apply if the development is permitted development. As the proposal would fail to constitute permitted development, there is no need to consider whether prior approval should be granted.

Conclusion

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

S Lo

INSPECTOR