



Appeal Decision

Site visit made on 25 February 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 March 2025

Appeal Ref: APP/X5210/W/24/3353060

Kings Court, 523 Finchley Road, Camden, London NW3 7BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Simon Chaing against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2024/3048/P.
 - The development proposed is erection of a two-storey upward extension, to create 3 x residential units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Class A of Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted 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 as well as certain associated works. For development to be permitted it must satisfy the limitations set out at paragraph A.1. and the conditions at paragraph A.2. of Class A. Furthermore, Article 3(9A) of the GPDO states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse where: (a) the gross internal floor area would be less than 37 square metres (sqm) in size; or (b) the new dwellinghouse would not comply with the nationally described space standard (NDSS)¹.

Main Issues

3. Before prior approval under Class A can be evaluated, it is necessary to determine whether or not the proposal falls to be considered as 'permitted development'. The Council has claimed the proposed dwellinghouses would not comply with the NDSS, and if this were the case, the proposal would not comprise permitted development on account of Article 3(9A) of the GPDO. If, however, the proposal could comprise permitted development, the Council has objected to prior approval being granted on account of the claimed transport and highways effects of the proposal and its effect on the external appearance of the building.

¹ Technical housing standards – nationally described space standard" issued by the Department for Communities and Local Government on 27th March 2015

4. Accordingly, the main issues are:

- whether the proposal could be permitted development with regard to Article 3 (9A) of the GPDO relating to the NDSS; and
- if the proposal could be permitted development whether prior approval should be granted with regard to its transport and highway effects and its effect on the external appearance of the building.

Reasons

5. The proposed dwellings would meet the Gross Internal Area (GIA) requirements set out in the NDSS, and would not have GIA less than 37sqm.
6. However, to comprise permitted development the proposal must comply with the NDSS as a whole. An integral part of the NDSS is specified bedroom sizes and widths. The NDSS requires that single bedrooms should have a floor area of at least 7.5sqm and be at least 2.15m wide. Therefore, any areas of floorspace narrower than 2.15m would not be 'usable' floorspace.
7. The bedroom of the proposed Flat 14 would have a floorspace of 7.5sqm, however part of this space is an entrance area less than 2.15m wide, which would not be 'usable' space. Similarly, the single bedroom of the proposed Flat 12 would fall marginally below the minimum floorspace requirements once the narrow entrance area is discounted. Bedroom 2 of proposed Flat 13 would be long and rectangular in shape and its width would be less than the 2.15m threshold and therefore would also fall below the NDSS requirements. Consequently, as a result of their widths, three of the proposed bedrooms would fail to meet the minimum floorspace requirements set out in the NDSS.
8. The appellant contends that the use of OS plans results in some discrepancies and overall floorspace requirements are met, and that minor amendments could make the proposal acceptable. Whilst the deficit in one of the bedrooms is minimal, the other two bedrooms would fall well below the minimum floorspace requirements set out in the NDSS. As minimum standards, it is a basic requirement that they should be met in all cases. Furthermore, with regards to the claimed discrepancies between OS plans and measured surveys, it is the appellant's responsibility to provide accurate plans to support the application, without the need for amendments, and I have based my decision on the plans submitted.
9. The appellant has referred me to the case of Mansell², which relates to whether a farm building exceeded the threshold for conversion to residential use under Class Q of Part 3, Schedule 2 of the GPDO. The circumstances and findings in that case are not directly relevant to this appeal.
10. In conclusion, I find that by virtue of all three proposed dwellinghouses failing to meet the minimum requirements for bedroom floorspace set out in the NDSS, the proposal would not be permitted development on account of Article 3(9A) of the GPDO. It is therefore not necessary for me to consider whether prior approval should be granted for the development and the second main issue does not fall to be assessed.

² Michael Mansell v Tonbridge and Malling Borough Council v Croudace Portland, the East Malling Trust [2017] EWCA Civ 1314

Conclusion

11. For the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR