



Appeal Decision

Site Visit made on 10 May 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/F5540/W/21/3267644

10 Staines Road, Hounslow TW3 3JS

- 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 AA (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Niche Real Estate (UK) Limited against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01054/10/PA1, dated 16 September 2020, was refused by notice dated 10 November 2020.
 - The development proposed is prior approval for the erection of two additional floors above the existing third floor creating additional six flats (4 x 2 bed and 2 x 3 bed) with associated works.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AA(1), Paragraph AA.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for erection of two additional floors above the existing third floor creating additional six flats (4 x 2 bed and 2 x 3 bed) with associated works, at 10 Staines Road, Hounslow TW3 3JS, in accordance with the application Ref 01054/10/PA1, and the attached schedule of conditions.

Applications for costs

2. An application for costs was made by Niche Real Estate (UK) Limited against the Council of the London Borough of Hounslow. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading and decision above is taken from the appeal form and the Council's refusal notice. This is more succinct than the description in the application form, while it also removes superfluous information. I do not consider that any party has been prejudiced by my approach.
4. Class AA of Part 20, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits construction of up to two additional storeys of new dwelling houses immediately above the topmost storey on a detached building. For the purposes of the GPDO "detached" means that the building does not share a party wall with a neighbouring building.

5. There is no definition of what constitutes a party wall within the GPDO, however, the Ministry of Housing, Communities and Local Government's Planning Portal defines a wall as a "party wall" if it stands astride the boundary of land belonging to two (or more) different owners. A further interpretation is provided which states that the Party Wall is the dividing wall or partition between two properties which is shared by the owners or tenants of each side. As both parties have referred to the definition in the Planning Portal, I have used this for the purposes of my assessment.
6. Class AA has been amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 4) Order 2020. However, it states that the amendment does not take effect where a prior approval application is submitted before 30 December 2020. Therefore, the amendment does not apply in this case.
7. In refusing the proposal the Council contends that the building is not detached and therefore fails to comply with the terms of Class AA of the GPDO.
8. The appeal has been accompanied by further information to support the appellant's case that the proposal is a detached building and complies with Class AA.

Main Issue

9. The main issue is whether or not the development would accord with the provisions of Class AA.

Reasons

10. The appeal site comprises a four-storey mixed use building with commercial uses at the ground floor and residential flats above. The proposal would add a further two storeys onto the building creating an additional 6 flats.
11. The adjacent property, No 8 Staines Road (No 8), is a single storey flat roof building. From Bell Square to the south the front elevations of No 8 and the appeal building are seen to adjoin one another. This is also the case at the rear when viewed from the service yard. The appellant confirms, that this is minor infilling of the gaps at the front and rear of the building. The purpose of this is to prevent litter collecting in the narrow space that separates the two buildings, as opposed to providing structural support between the two side walls. Given the appeal site's town centre location this sealing of the gap between the two buildings represents a sensible approach from a maintenance perspective, and I have no reason to disagree on its intended purpose.
12. The photographs submitted show the relationship between the appeal building and No 8 during its construction and from an elevated position following its completion. Notwithstanding the infilling at the front and the rear, these display a narrow albeit clear gap between the sides of the two buildings for most of their length. Furthermore, the construction phase images show that No 8 and the appeal property have their own independent side walls that are not adjoined or tied to one another for structural purposes. This is also evident on drawings 01 and 02 of the appeal building, which show no indication of a shared wall or foundations to support the wall to No 8.
13. During my site visit, I was able to observe the gap between the buildings clearly from elevated vantage points that included the roof of the appeal

building and from within an upper floor of No 2 Bath Road, to the south. Although I noted the short sections infilling the gap at the front and rear, from what I observed on site, this serves a functional purpose to prevent littering and I do not consider this minor bonding between the two buildings at those locations would fall under the definition of a party wall.

14. In determining whether or not a building is detached for the purposes of Class AA, this should not be limited to a visual inspection from public land alone. Therefore my assessment has taken into account the further information provided which has included other visual perspectives of the appeal building as it relates to No 8, and I am satisfied that this information, as well as my own visual assessment on site, sufficiently demonstrates that the building is detached for the purposes of Class AA.
15. No further areas of dispute have been raised by the parties in respect of the remaining qualifying criteria under, Classes AA.1, AA.2, and AA.3. From what I have seen, and the evidence before me I find no reason to reach an alternative conclusion.

Other Matters

16. There are concerns from a third-party occupier that the construction process would result in harm to living conditions. However, under the terms of the GPDO any development permitted under Class AA must set out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated. This will need to be approved by the local planning authority prior to construction.
17. I note the concerns relating to potential structural damage as a result of the additional floors, however, I have no detailed evidence before me of how this would harm the existing building.

Conditions

18. Standard conditions are set out in paragraph AA.2 of the GPDO, whilst Paragraph W(13) allows further conditions to be imposed that are reasonably related to the subject matter of the approval.
19. I consider it is necessary to impose a condition requiring the provision and retention of cycle parking in order that adequate facilities are provided for residents and that alternative modes of transport such as bicycles can be stored securely.
20. Given that additional residential units have been approved, I have imposed a condition requiring details of the arrangements for servicing and deliveries. This is necessary to ensure that those undertakings are acceptable in the interests of highway safety.
21. A condition that prevents residents (other than disabled persons) from obtaining parking permits in the area is necessary to protect the safety of traffic on nearby highways and to support sustainable transport objectives.
22. The appeal site's proximity to an air traffic flight path requires conditions to satisfy local noise abatement requirements. I have amended the Council's suggested condition relating to noise testing as the continuous submission of

data following the approval of details would be unreasonable. Also, a condition setting noise limits on any adjacent plant equipment is also imposed. These conditions are necessary to protect the amenities of residents.

23. I have imposed a condition requesting a crane management strategy given the appeal site's location close to Heathrow Airport. This is necessary in the interests of public safety.
24. Finally, in the interests of the amenity of occupiers of the appeal building, a condition is necessary requiring details of a roof terrace to be approved prior to occupation of the development.
25. I have not imposed the Council's suggested time limit condition for the completion of the development of the works as this is routinely required by the Order, unless otherwise stated. The appellant should therefore complete the development within 3 years starting from the prior approval date. Furthermore, I have not imposed a plans condition, as the GPDO provides that development must be carried out in accordance with the details approved. A construction management plan is also a requirement of the GPDO, therefore I have not imposed this suggested condition, other than where it is required for crane management purposes.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

RE Jones

INSPECTOR

Schedule of Conditions

1. No dwelling shall be occupied until full details (including manufacturers specifications) of secure covered cycle parking facilities (in accordance with New London Plan standards) for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall conform to current guidance such as the TfL London Cycling Design Standards and West London Cycle Parking Guidance in design and layout and be fully implemented and be made available for use before the first occupation of the development and thereafter retained for use at all times without obstruction.
2. No dwelling shall be occupied until arrangements have been agreed in writing with the local planning authority and put in place to ensure that, with the exception of disabled persons, no resident of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force in the area at any time.
3. No dwelling shall be occupied until a Delivery and Servicing Strategy has been submitted to and approved in writing by the Local Planning Authority. The plan shall cover the delivery and servicing arrangements, including the arrangements for the storage and collection of waste and recycled materials. The development shall not be carried out otherwise than in accordance with the approved details.
4. A) No development shall take place until a scheme of noise mitigation has been provided to the Local Planning Authority to demonstrate that noise levels within dwellings (and to balcony or garden areas, where relevant) comply with the requirements of BS 8233:2014 and achieve 35 dB LAeq, 16 hours within living rooms during the daytime (07:00-23:00), 30 dB LAeq, 8 hour within bedrooms at night-time (23:00-07:00) and 45 dB L_{Amax} no more than 15 times per night within bedrooms. The report shall also detail the arrangements for ventilating the residential premises so identified.
B) Prior to the development being occupied, sound insulation test reports demonstrating compliance with the scheme approved under Part A of this condition, shall be submitted to and approved in writing by the Local Planning Authority. The tests shall be carried out taking account of worst-case environmental conditions, such as easterly operations at Heathrow, peak time traffic flows, wind speed, direction and presence of temperature inversion.
5. Noise from fixed plant should not exceed levels more than 10 dB below background (L90) levels at free field locations representing facades of nearby dwellings. Noise levels should be assessed by measurement or calculation based on the guidance presented within BS4142: 2014+A1:2019 or subsequent versions of this guidance.
6. No dwelling shall be occupied until details of the communal roof terrace have been submitted to and approved in writing by the Local Planning Authority. Such details shall include: finishing materials; planting schedules; section drawings; and any other landscaping features forming part of the landscaping scheme. All landscaping works shall be undertaken in accordance with the

approved details and completed prior to the occupation of any part of the development and retained thereafter.

7. Development shall not commence until a construction management strategy has been submitted to and approved in writing by the Local Planning Authority covering the application site and any adjoining land which will be used during the construction period. Such a strategy shall include the following matters: - details of cranes and other tall construction equipment (including the details of obstacle lighting) – Such schemes shall comply with Advice Note 4 'Cranes'. The approved strategy (or any variation approved in writing by the Local Planning Authority) shall be implemented for the duration of the construction period.

*****End of Schedule*****