



Appeal Decision

Site Visit made on 29 June 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Appeal Ref: APP/N5090/W/21/3267852

Raffles House, 67 Brampton Grove, Hendon NW4 4BU

- 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 HSDSJS01 Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref 20/5179/PNV, dated 30 October 2020, was refused by notice dated 24 December 2020.
- The development proposed is construction of two additional storeys on the existing block of flats to provide addition of 22no dwellings.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for construction of two additional storeys on the existing block of flats to provide addition of 22no dwellings at Raffles House, 67 Brampton Grove, Hendon NW4 4BU in accordance with the application 20/5179/PNV made on 30 October 2020, and the details submitted with it including plan Nos 5202/01A, 5202/02A, 5202/03, 5202/04, 5202/05, 5202/06, 5202/12 (Existing South Elevation), 5202/08, 5202/09, 5202/10, 5202/11, 5202/12 (Proposed North Elevation), 5202/13, 5202/15 and 5202/16.

Preliminary Matters

2. In the period since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.
3. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Class A 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, as well as certain associated works.
4. For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions establish a requirement for developers to apply to the local planning authority for a determination as to whether prior approval will be required in relation to a number of specified prior approval matters. In determining such an application,

paragraph B (15) requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.

5. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan referred to by the main parties insofar as they are material to the matters for which prior approval is sought.

Main Issues

6. Having assessed the proposal, the Council has raised objections only in relation to prior approval matters concerning the external appearance of the building and the transport and highways impacts of the development. I have no firm evidence to disagree with that assessment.
7. The main issues are therefore whether or not prior approval should be granted having regard to (i) the external appearance of the building and (ii) transport and highways impacts of the development.

Reasons

External Appearance of the Building

8. The appeal site includes a six-storey residential building with a flat roof, above which the appeal proposes two additional storeys to accommodate 22 dwellings. The proposal also indicates provision of 11 additional car parking spaces, 48 cycle spaces and bin storage within the wider appeal site.
9. The proposed seventh storey would be constructed in line with the existing building beneath and would be finished in facing brickwork and mosaic tiling materials to match. The eighth storey would be partly inset from the floors below and would include a different arrangement of glazing and contrasting cladding materials giving it a more lightweight appearance. The Council has not raised an objection to the design or appearance of the resulting building itself, and I agree that the materials, vertical rhythm, fenestration and storey heights would be sympathetic. I am satisfied therefore that the development would assimilate appropriately with the host building.
10. The Council is concerned though that the proposal would further increase the height of a building which is already of greater height than is typical within the locality. It asserts that the bulk and height of the building would be dominant within its surroundings and that it would cause harm to the character of the area. In this regard, my attention has been drawn to a dismissed appeal for a proposed seventh storey to the building where it was found that the development would have accentuated the prominence of the building and resulted in an unduly overpowering effect upon the street scene.
11. However, the dismissed appeal concerned an outline planning application. In contrast, the current appeal is to be determined in the context of Schedule 2, Part 20, Class A of the GPDO where the relevant prior approval matter at Paragraph A.2(1)(e) concerns only 'the external appearance of the building'. This differs from some other classes of the GPDO highlighted by the appellant which include broader prior approval matters referring additionally to the

- design or to the siting and design of development alongside external appearance. As it is written, Paragraph A.2(1)(e) therefore suggests to me a relatively narrow assessment confined only to the appearance of the building itself, and not to any effect in relation to the surrounding area.
12. Moreover, the Planning Practice Guidance confirms that prior approval is a light-touch process which applies where the principle of the development has already been established. In this case, the grant of permission by the GPDO was introduced to support key Government priorities to boost housing delivery and increase densities by making effective use of existing buildings, and establishes the principle that a building may be extended by up to two storeys. While this may result in a building taller than neighbouring development, this would be an inevitable consequence of the right established by the GPDO in many cases and in the absence of any explicit provisions requiring consideration of a development in the context of its surroundings, there seems to me to be acceptance of such an outcome.
 13. I note support within the Framework for upward extensions to buildings where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene. This reflects an intention set out within an earlier Written Ministerial Statement. However, the provision within the Framework applies to planning policies and decisions, including on planning applications which are subject to different statutory requirements and considerations than apply under the GPDO, and cannot be applied so as to frustrate the purpose of the grant of rights through the GPDO. Accordingly while paragraph 120 of the Framework refers to upward extensions, I do not find this fact in itself compelling evidence that prior approval required under Paragraph A.2(1)(e) extends to consideration of the effect of a proposal on the character of an area more widely.
 14. Taking the above together, I see no reason to alter my view that assessment under Paragraph A.2(1)(e) should only consider the appearance of the building itself. In this context, I do not find that requirements within the Framework seeking generally development that is sympathetic to local character are relevant to the subject matter of the prior approval.
 15. For these reasons, I conclude on this main issue that the external appearance of the building would be acceptable, and would not result in harm within the context of the subject matter of the prior approval required under Schedule 2, Part 20, Class A, Paragraph A.2(1)(e) of the GPDO. Within the context of that permitted development right, the external appearance of the building would also accord with the Framework in so far as it seeks good design and development that is visually attractive.

Transport and Highways

16. Although not of direct relevance to the current appeal, Policy DM17 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) provides useful guidance on the level of parking which would generally be sought as part of new development. With reference to this policy, the Council indicate that the 11 spaces proposed would be 16 short of the approximate number of spaces that the Highways Authority advise would be required.

17. Nevertheless, Policy DM17 of the DMP goes on to advise that residential development may be acceptable with limited or no parking within a Controlled Parking Zone (CPZ), though it notes that where it can be demonstrated that there is insufficient capacity on street, the applicant will be required to enter into a legal agreement to restrict future occupiers from obtaining permits.
18. Brampton Grove and surrounding streets are part of a CPZ which restricts parking to permit holders during specified hours. At the time of my visit, I saw fairly few spaces available on street near to the site. In addition, my visit took place on a working day at a time when it would be reasonable to expect comparatively lower levels of parking assuming some residents may be out at work or engaged in other activities away from home. I acknowledge that my visit offers only a snapshot, but representations by a number of interested parties also refer to difficulty in parking locally. Although I have not been provided with surveys of existing parking capacity within the CPZ, I see no reason from the evidence before me to doubt that streets near to the appeal site are often subject to parking pressure. Given the shortfall in parking on the appeal site, this could be exacerbated by additional demand for on-street parking, leading to frustration and inconvenience to residents seeking an available space to park, and potential for congestion and conflict between vehicles to the detriment of highway safety.
19. However, the appeal site is within an area with moderate levels of access to public transport, close to Hendon Central Underground Station and a number of bus routes. The proposal also includes provision for cycle storage on the site. Occupiers of the development would not therefore necessarily need to rely on private vehicle use or ownership, and I consider that the level of parking would be acceptable to meet needs.
20. The appellant has also provided an executed Unilateral Undertaking dated 12 August 2021 (UU) which provides contributions towards the costs of modifying the CPZ in order to prevent future occupiers of the development from entitlement to a permit, as well as monitoring of the obligations. Given my findings above, I consider this would be necessary. The UU further provides that this restriction would be made clear to every resident of the development prior to occupation, and that agreements for the purposes of selling or letting dwellings would include covenants to the effect that occupiers will not apply for or knowingly permit an application to be made for a parking permit. While these further provisions would not comply with the terms of Section 106 of the Town and Country Planning Act 1990 (as amended), the UU is also made under Section 16 of the Greater London Council (General Powers) Act 1974 (as amended) which is less restrictive. I am therefore satisfied that these obligations would appropriately secure what is intended.
21. Taking these factors together with the ability of the Council to enforce existing parking restrictions, I do not find that the proposal would be likely to result in overspill parking so as to harm highway safety or otherwise result in severe impacts on the road network contrary to paragraph 111 of the Framework. I therefore conclude on this main issue that there would not be unacceptable transport and highways impacts as a result of the development.

Other Matters

22. I have given careful consideration to representations made about the proposal. With regard to the scale and layout of the development proposed on the site

and its relationship with surrounding properties including the separation that would be maintained, I do not consider that it would result in a significant increase in overlooking or a harmful loss of light, outlook or privacy for occupiers in comparison to the existing situation. I am also satisfied that there would not be unacceptable light pollution, noise or disturbance to residents. There is no substantive evidence before me that additional traffic associated with the proposal would harm highway safety, nor that the proposal would harm biodiversity or nature conservation.

23. Matters relating to the internal layout of the dwellings and provision of windows to bathrooms as well as any effects on local services are outside the scope of the GPDO assessment of this appeal. Similarly, existing lease arrangements are not a consideration here, and concerns regarding the ability of the existing building to support additional storeys would be a matter for Building Regulations.

Conditions

24. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class A of the GPDO is subject to conditions set out in paragraph A.2 of that Class. Other than listing the approved plans which are set out within my formal decision, the Council has not recommended additional conditions to those at A.2 which specify that:
- the development must be completed within a period of 3 years starting with the date prior approval is granted;
 - before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development which sets 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;
 - the developer must notify the local planning authority of the completion of the development as soon as practicable after completion and the notification must be made in writing and include the name of the developer, the address or location of the development and the date of completion; and
 - any new dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

J Bowyer

INSPECTOR