



Appeal Decision

Site Visit made on 10 August 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/T5720/W/21/3275203

90 Garfield Road, London SW19 8SB

- 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 Oppidan (GR) Ltd against the decision of the London Borough of Merton.
 - The application Ref 21/P1097, dated 11 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is erection of an additional storey to create 4 self-contained studio flats.
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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 A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the erection of an additional storey to create 4 self-contained studio flats at 90 Garfield Road, London SW19 8SB in accordance with the terms of the application, Ref 21/P1097, dated 11 March 2021, and the plan submitted with it subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. I have taken the description of development from the Council's decision notice as it simply and accurately describes the development.
3. The principle of the development is established by Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). The prior approval provisions do not require regard to be had to the development plan.
4. The appellant has produced a planning obligation by Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. The UU would restrict possession of parking permits for future occupiers in order to ensure a car-free development. I return to this matter later on.

Main Issue

5. The main issue is whether the proposed development would be granted planning permission by the GPDO with particular regard to the requirements of paragraphs A.2(1) (e) relating to the external appearance of the building.

Reasons

6. The appeal property is a modern three storey block of apartments located on a predominantly residential road. Properties on this side of Garfield Road display variety in terms of design and scale. The building's height, form and appearance ensure it blends into this varied street scene. The streets opposite are formed of two storey terraced dwellings which whilst having a tighter urban grain have a coherent and pleasant character.
7. The block is largely constructed from yellow brick with recessed balconies and windows with a vertical emphasis. The top floor has a scale and proportion that complements the host building, but also has its own identity achieved by its set back and external finish.
8. The proposed development would be predominantly glazed and there is no doubt that it would alter the appearance of the host property. The height, form and proportions of the additional storey would reflect those of the host property. It would be noticeably set in from the walls and would have a lightweight appearance. The position and proportions of the windows would largely match and align with those below ensuring visual continuity.
9. The proposal whilst reflecting the host property would also create its own identity through the use of glazing ensuring it would integrate into the building without being unduly prominent or incongruous.
10. Consequently, I find that the external appearance of the proposed building would be acceptable.
11. The Council have also raised concerns that the proposed development would result in a building that does not relate to the height and massing of buildings along Garfield Road. The wording in the context of paragraph A.2(1)(e), in my view, suggests a relatively narrow assessment as to the external appearance of the proposal itself, including the design and architectural features, rather than its effect on the wider area.
12. The principle of upward extensions is established by the GPDO. The increased height and a taller building are an inevitable consequence and has to be interpreted as not being inconsistent with the street scene and wider area for the purposes of Part 20, Class A.

Other Matters

13. The proposed development makes no provision for on-site parking and there is the potential for it to generate demand for additional on street parking within the Controlled Parking Zone (CPZ). The appellant has provided a UU as the mechanism to ensure that the development would be car-free by preventing occupiers from obtaining a parking permit.
14. The UU includes the legislation under which it is made, sets out the requirements, defines the site and is dated and duly executed. Moreover, I note that the provision and contents of the UU are not contested by the Council.
15. As such, I am satisfied that the UU serves to ensure that the development would be car-free by preventing occupiers from obtaining a parking permit.

Conditions

16. Paragraph B(18) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have considered these in light of the National Planning Policy Framework and the Planning Practice Guidance.
17. A condition for details of the external materials has been imposed to ensure a satisfactory appearance. In the interests of sustainability, a condition for cycle parking to be installed prior to occupation has also been imposed.
18. Paragraph A.2(3) of the GPDO sets out that prior to commencement the developer must provide the local planning authority with a report for the construction of the development including hours of operation. As such, it is not necessary to impose the condition suggested by the Council limiting the construction hours.

Conclusion

19. For the reasons set out above the appeal succeeds and prior approval is granted.

B Thandi

INSPECTOR

Schedule of conditions

- 1) No development shall commence (excluding demolition) until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 2) The development shall not be occupied until the cycle parking shown on Drawing Number GAR-PL-PRO-02 shall have been constructed in accordance with the approved plan. The cycle parking shall be retained thereafter for the lifetime of the development.