



Appeal Decision

Site Visit made on 6 September 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2021

Appeal Ref: APP/M5450/W/21/3271920

Kotecha House, 297 Pinner Road, Harrow, Middlesex HA1 4HF

- 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 Mr Vipul Kotecha on behalf of Sandkot Ltd against the decision of London Borough of Harrow.
 - The application Ref P/3981/20, dated 3 November 2020, was refused by notice dated 21 January 2021.
 - The development proposed is described as: 'Additional two storeys (height 6.95m) of development containing 4 flats on an existing block of flats - maximum overall height 15.9m (Prior approval of transport and highway impacts; air traffic and defence asset impacts; contamination risks; flooding risks; the external appearance of the building; the provision of adequate natural light in all habitable rooms of the new dwellinghouses; impact on amenity of existing and neighbouring premises and impact on protected view).'
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 20, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for an additional two storeys (height 6.95m) of development containing 4 flats on an existing block of flats, maximum overall height 15.9m, at Kotecha House, 297 Pinner Road, Harrow, Middlesex HA1 4HF in accordance with the terms of the application, Ref P/3981/20, dated 3 November 2020, subject to the various conditions laid out at Paragraph A.2 of Part 20 of the GPDO and the additional conditions set out at the end of this decision.

Preliminary Matters

2. In the first paragraph of this decision, I have used a description of development consistent with that stated on the Council's Decision Notice and the appeal form. Even so, for the avoidance of doubt, it is not necessary for me to reference matters subject to prior approval when describing the development.
3. Additional plans¹ have been submitted at appeal stage, which have been provided in the interests of illustrating the relationship between the proposed building and neighbouring property to the west. The plans do not evolve the scheme and I am content that no party with a potential interest in the outcome of the appeal is prejudiced by me accepting them for information purposes.

¹ KKH35 and KKH36

4. Since the determination of the application that is now the subject of this appeal, the London Plan 2021 was published in March 2021. Further, a revised version of the National Planning Policy Framework (the Framework) was published in July 2021. The main parties to this appeal have had opportunities to comment upon any relevance of these occurrences to the outcome of this appeal.
5. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No.2) Order 2021 came into force on 1 August 2021. This had the effect of amending Part 20, Class A of the GPDO via introducing fire safety related requirements. However, as the heights of the existing building and proposed development are insufficient to necessitate an application for prior approval in a fire safety sense, I have not sought observations from the main parties as regards any potential relevance to the outcome of this appeal.
6. The provisions of Part 20, Class A, Paragraph A.2 of the GPDO require the local planning authority to assess the proposed development based on several different matters. The Council's reasons for refusal confirm that the only matters in contention relate to the external appearance of the building and to the impact on the amenity of specified neighbouring premises. I shall construct the Main Issues and determine the appeal accordingly.

Main Issues

7. The main issues are:
 - Whether or not the external appearance of the building would be acceptable; and
 - Whether or not the impact of the proposal upon the amenities of neighbouring occupiers situated to the west of the site would be acceptable, having particular regard to outlook.

Reasons

External appearance

8. Specific concerns have been raised with respect to the intention to introduce grey-coloured cladding to the uppermost floor. However, I see merit in the argument that this would add visual interest to the building. It was also apparent upon inspection that a wide variety of external-facing materials exist local to the site. Furthermore, an existing central core projection would be continued, and new openings would be sized and positioned to respect the building's current fenestration. Particularly when noting that the cladding's final specification could be secured via condition, the external appearance of the proposed development would be acceptable.
9. The scheme accords with Policy DM1 of the Harrow Council Development Management Policies (July 2013) (the DMP) and with the Framework in so far as these policies set out that the assessment of the design and layout of proposals will have regard to the appearance of proposed buildings.

Amenities of neighbouring occupiers

10. The site is neighboured to the west by a two-storey complex of residential flats (the complex) and associated grounds. The complex is orientated and

positioned such that various window openings directly face the appeal building. The closest elements of the appeal building to the complex are located at ground and first floor, whilst the second floor, being of narrower width, is setback further in comparative terms.

11. The two additional storeys would closely follow the floor plate of the building's second floor. A relatively generous separation distance between the complex and the proposed development would thus be achieved. Indeed, in accordance with the requirements of the Harrow Council Residential Design Guide Supplementary Planning Document (December 2010) (the SPD), it has been demonstrated that there would be sufficient separation to ensure that an upward plane angled at 45 degrees would not be interrupted when taken from the lower edges of the complex's facing ground floor windows.
12. It is also relevant that available outlook on an eastern orientation from the complex is already heavily influenced by the presence of the existing three-storey building as well as intervening fencing and storage structures. A fundamental or obvious change to the outlook experienceable by neighbouring occupiers would not ensue, neither would an overbearing relationship.
13. For the above reasons, having particular regard to outlook, the impact of the proposal upon the amenities of neighbouring occupiers situated to the west of the site would be acceptable. The scheme accords with Policy DM1 of the DMP, the Framework and the SPD in so far as these policies and guidance require that the assessment of privacy and amenity considerations will have regard to the visual impact of development when viewed from within buildings and outdoor spaces.

Other Matters

14. The proposal is supported by a Daylight and Sunlight Report (November 2020) (the Report), which finds that the scheme generally accords with the British Research Establishment guidelines for daylight and sunlight. Merely two infringements of these guidelines are identified via the Report, both of which relate to openings of modest size that serve units within the complex and that are sited alongside an external stairwell that would limit available natural light in any event. I also note that the Report highlights limited anticipated daylight or sunlight effects to properties situated to the opposite northern side of Pinner Road, where generous separation distances would be achieved. Having inspected the site and its immediate surroundings, I am suitably content that the Report's findings are robust and accurate. Thus, when having regard to potential loss of light for neighbouring premises, the scheme's impact would be acceptable.
15. Whilst a concern has been raised that the intended introduction of four flats would increase the building's capacity for occupiers and thus the potential for noise to be generated, any difference when compared to current site circumstances would realistically be negligible. The noise impact upon occupiers of neighbouring premises would thus be acceptable.
16. A concern raised that the proposal would potentially set a precedent for similar forms of development is not relevant to my determination of this appeal. Indeed, unlike where an application for planning permission has been submitted, my considerations are necessarily limited to the provisions of Schedule 2, Part 20 of the GPDO and, more specifically, to the relevant matters

listed under sub-paragraph (1) of Paragraph A.2. For the avoidance of doubt, from the evidence before me, the proposal would not have an adverse impact or cause undue risks in the context of any of these listed matters. This indicates that prior approval should be granted.

Conditions

17. Sub-paragraph (18) of Paragraph B of Part 20 allows for the imposition of conditions reasonably related to the subject matter of the prior approval. The Council has suggested conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and have omitted others.
18. In the interests of certainty, a condition setting out the approved plans is required. I have not considered it necessary to list informative supporting documents. A time limit for completion is already specified under Paragraph A.2 of Part 20 of the GPDO, such that a condition to control the timing of the commencement of development is unnecessary. Similarly, Paragraph A.2 sets out that the developer must provide a report for the management of the construction of the development. I do not consider that a separate Construction Method Statement and Logistics Plan is necessary to condition in this instance.
19. As the heights of the existing building and proposed development do not generate a requirement for prior approval to be applied for in a fire safety sense, I find that a condition setting out a need for a Fire Safety Statement to be submitted would not be reasonably related to the subject matter of the prior approval application and would be unreasonable to impose. I note here that fire safety compliance matters would be covered independently by the Building Regulations.
20. In the interests of ensuring that the building has an acceptable external appearance, a condition securing that samples of the intended cladding material are submitted for approval prior to the erection of the building's uppermost floor is both reasonable and necessary. It is clearly depicted upon approved plan KKH29 that the bricks to be used shall match existing and, other than with respect to the cladding, it would be unnecessary to require external material samples/details to be provided.
21. In the interests of maintaining an acceptable external appearance, a condition is reasonable and necessary to secure elevation and material details for the intended refuse and cycles stores. I note that the specification of the bins and cycle stands to be provided are set out upon the approved site plan. A further condition seeking to secure that refuse bins are stored within their designated storage areas at all times (apart from on collection days) would be unduly difficult to enforce given the range of different occupiers within the building. Moreover, should future associated amenity issues arise, options would exist outside of the planning process to pursue corrective actions.
22. In the interests of protecting the privacy of the occupiers of neighbouring premises, a condition is reasonable and necessary to impose that secures that all windows and privacy screens to be erected to the building's flank elevation are comprised of obscure glass, and that the windows are fixed shut beneath a height of 1.7m measured internally.

23. National permitted development rights falling under Schedule 2, Part 1 of the GPDO do not apply to flatted units of residential accommodation. It is therefore unnecessary to withdraw permitted development rights as suggested by the Council. Indeed, as separate permission would be required to install additional windows or doors to the side elevations of the building, a condition seeking to guard against such eventualities is also unnecessary.
24. Whilst the Council has not specifically suggested that any conditions be applied relating to flooding risks at the site, reference to Drainage Officer requests are contained within its Delegated Report. For the avoidance of doubt, the site is not located within any area which is at risk of flooding, a Drainage and Services plan makes up part of the suite of approved plans and limited alterations are planned to the site's external areas (consisting mainly of the laying of a small extent of additional permeable block paving). In the context described here, it is unnecessary to impose conditions relating to drainage/flooding risks at the site.

Conclusion

25. For the reasons set out above, the appeal is allowed and prior approval is granted subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: KKH21; KKH22; KKH23; KKH24; KKH25; KKH26; KKH27; KKH28; KKH29; KKH30; KKH31; KKH32; KKH33; KKH34; KEH301 Rev B; KEH306.
- 2) The development hereby permitted shall not be first occupied until elevation details of the refuse and cycle stores depicted upon approved plan KKH34, together with details of the external-facing materials to be used, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development and shall thereafter be retained.
- 3) The fifth floor of the building hereby permitted shall not be erected until samples of the cladding materials to be used in the construction of its external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall thereafter be retained.
- 4) In accordance with approved plans KKH31 and KKH32, all windows and privacy screens hereby permitted to be added to the flank elevations of the building shall be of purpose-made obscure glass and, with respect to the windows, shall be permanently fixed closed below a height of 1.7m measured internally from finished floor level. The windows and privacy screens shall thereafter be retained in their permitted form.