



Appeal Decision

Site Visit made on 8 November 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2022

Appeal Ref: APP/U5930/W/21/3271846

28 Chingford Mount Road, London E4 9AB

- 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 AA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr John Williams on behalf of RKJ Developments against the decision of Waltham Forest London Borough Council.
 - The application Ref 203490, dated 6 November 2020, was refused by notice dated 5 January 2021.
 - The development proposed is construction of a roof extension to a detached building in commercial or mixed use to create a third and fourth floor providing 4 x 2 bed self-contained flats (Class C3) with provision for refuse and bicycle storage.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 23 November 2021.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the construction of a roof extension to a detached building in commercial or mixed use to create a third and fourth floor providing 4 x 2-bed self-contained flats (Class C3) with provision for refuse and bicycle storage at 28 Chingford Mount Road, London E4 9AB in accordance with the terms of the application, Ref 203490, dated 6 November 2020, subject to the various standard conditions laid out at Paragraph AA.2 to Part 20 of the GPDO and the additional conditions set out at the end of this decision.

Applications for costs

2. An application for costs was made by Mr John Williams on behalf of RKJ Developments against Waltham Forest London Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. An applicant's name is not stated on the application form. Nevertheless, it has been confirmed at appeal stage that the now appellant was the original applicant. I am satisfied that no party with a potential interest in the outcome of this appeal is prejudiced by a determination being made on this basis.
4. I have used the description of development as given on the Council's Decision Notice and the appeal form, as opposed to the description provided on the application form. This is because it is concise, accurate and neutrally written.

5. The principle of development is established by the GPDO. The prior approval provisions do not require regard to be had to the development plan. Therefore, I have only had regard to the policies of the development plan in so far as they are material to the matters for which prior approval is sought.

Main Issues

6. The main issues are:

- Whether or not the proposal would constitute permitted development under Schedule 2, Part 20, Class AA, Paragraph AA(1) of the GPDO;
- Whether or not the external appearance of the building would be acceptable; and
- Whether or not the transport and highways impacts of the development would be acceptable, having particular regard to local parking conditions.

Reasons

Whether or not permitted development

7. The Class AA permitted development right applies when additional storeys of new dwellinghouses are constructed above a detached building. In accordance with definitions that are set out at Paragraph C to Part 20 of the GPDO, the term 'detached' means that the building does not share a party wall with a neighbouring building.
8. The main parties dispute whether or not the host building is a detached building. As set out in the Council's Delegated Report, it has been suggested that insufficient evidence has been submitted to demonstrate that a consistent gap exists between the facing flank elevations of the appeal property and the neighbouring property to the south, Nos 24-26 Chingford Mount Road.
9. Nevertheless, submitted correspondence from a Chartered Surveyor¹ asserts that the buildings in question are not attached and that a party wall (as defined under Section 20 of the Party Wall etc. Act 1996) does not exist. This judgement has been informed, at least in part, by the presence of a narrow yet perceptible gap at first floor level between the adjacent flank masonry walls, differences in the ages and rear projections of construction, and the creation and subsequent inspection of an internal aperture.
10. Having carefully considered the related evidence before me and carried out my own external inspection via the site's Chingford Mount Road frontage, I am content that it has been suitably demonstrated that the appeal building is detached for the purposes of assessment against Paragraph AA(1) of Part 20 of the GPDO. I also have no reason to consider the scheme to fail when considered against any other relevant requirement listed under Paragraphs AA or AA.1 of Part 20. Thus, the proposal represents permitted development.

External appearance of the building

11. The provisions of Paragraph AA.2 of Part 20 require the Local Planning Authority to assess the proposed development based on several different matters. One such matter is the external appearance of the building. The

¹ FW Taylor & Associates, dated 4 March 2021

existing building rises to three storeys in height across a rectangular footprint and is also part-comprised of single storey garaging to the rear. Its external elevations are predominantly comprised of brickwork, interspersed with some elements of decorative cladding.

12. The proposed additional storeys would reflect the building lines and parapet roof design currently exhibited by the three-storey part of the building. Furthermore, the positions and sizes of the intended window openings would replicate those already in place to the building's upper floors. In the interests of promoting further assimilation with the existing building, a condition could be applied to any approval to ensure that a complimentary formation of matching external-facing materials would be utilised.
13. The Council has raised specific concerns as regards the design of the intended flank wall of the additional storeys, where to be sited alongside Nos 24-26 Chingford Mount Road. A flank wall of considerable expanse and simple composition would result. Indeed, no new south-facing window openings are proposed as part of the scheme. Nevertheless, the flank wall would not directly address a highway and potential views of it would often be obscured (at least in part) by nearby roofscapes and/or established planting.
14. It is also relevant that Paragraph AA.2(1)(e) of Part 20 refers specifically to the design and architectural features of the principal elevation and any side elevation that fronts a highway. This offers a clear indication that it should be these elements of the proposed development that form the primary focus of considerations in an external appearance context.
15. I have noted the Council's references to various design-based policies and guidance, including the National Planning Policy Framework (July 2021) (the Framework) and development plan policies. I understand the concerns raised (including by interested parties) that the increased building height would lead to development that would appear unduly tall and bulky in the context of its surroundings. However, the permitted development right is expressly intended to allow upward extension by up to two storeys. Additional height and bulk are thus inevitable consequences of the permitted development right and do not offer a legitimate basis by which prior approval could be refused. Moreover, the effect of the proposal upon the area's wider character is not a matter that requires prior approval under Class AA.
16. For the above reasons, the external appearance of the building would be acceptable. The scheme accords with Policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy (March 2012) and Policy DM29 of the Waltham Forest Local Plan Development Management Policies (October 2013) in so far as these policies are material to my considerations and require a high standard of urban and architectural design to be achieved.

Transport and highways impacts

17. The transport and highways impacts of the development are specified under Paragraph AA.2 of Part 20. The Council's third reason for refusal refers to the absence of an assessment to confirm that the proposal would have an acceptable impact upon local parking conditions. I also acknowledge representations submitted by local residents that allude to a high demand for on-street parking spaces, to the busy nature of Chingford Mount Road and to

the difficulties that can be experienced when locating available spaces in the neighbourhood.

18. The appeal submission is supported by a Parking and Traffic Impact Assessment (March 2021) (the PTIA) that, in the interests of seeking to quantify the level of existing on-street parking, contains parking beat surveys undertaken during early morning hours on consecutive days in March 2021. On both occasions a not insignificant number of free and unrestricted on-street parking spaces were identified inside of a 200-metre walking distance from the site.
19. My own inspection of the local area took place during normal working hours. I noted limited available parking options along Frances Road (which runs adjacent to the site) but was able to identify other unrestricted parking opportunities within reasonable walking distance via safe and overlooked routes from the site. Moreover, I witnessed nothing to indicate the findings of the PTIA to be either misleading or inaccurate.
20. I also note that the site's position in proximity to a range of local facilities and services, including bus stops and designated cycle lanes, would be likely to promote occupation of the development without car ownership in at least some instances. For the above reasons, having particular regard to local parking conditions, the transport and highways impacts of the development would be acceptable.

Other Matters

21. As regards the impact of the proposal upon the amenities of the occupiers of neighbouring premises, I find that the additional storeys would be sited to avoid any undue loss of light for neighbouring occupiers. Indeed, the additional storeys would follow the footprint of the existing three storey part of the building and would be stepped back from both Chingford Mount Road and Frances Road.
22. The intended new window openings would follow the positions and orientations of existing openings at the site and, when also factoring in the separation distances involved, would not create overlooking to the undue detriment of the privacy currently enjoyed by neighbouring occupiers. Furthermore, when noting the precise location of the additional storeys, no undue or harmful loss of outlook for any neighbouring occupier would result. Thus, based on the evidence that is before me, the proposal would have an acceptable impact upon the amenities of the occupiers of neighbouring premises.
23. It has been suggested that the proposal, if built, would set a precedent for similar forms of development to come forward locally. However, I must consider the scheme that is before me upon its own individual merits. Moreover, 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 AA.2.
24. It has been suggested that there is no shortage of available housing local to the site. Even should this be the case, such circumstances would not justify the refusal of prior approval.

25. From the evidence before me, the scheme would not have an adverse impact or cause undue risks in the context of any of the relevant matters listed under Paragraph AA.2(1). This indicates that prior approval should be granted.

Conditions

26. 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 made amendments where necessary for clarity and consistency purposes. At paragraph 1 of this decision, I have referenced the various standard conditions that apply as laid out at Paragraph AA.2 to Part 20 of the GPDO.
27. Sub-paragraph (17) of Paragraph B to Part 20 sets out that development must be carried out in accordance with the details approved. In this sense, a condition listing the approved plans is reasonable to impose in the interests of certainty.
28. In the interests of ensuring that the newly enlarged building has an acceptable external appearance, a condition to attain full assurances (prior to the commencement of development) that the external-facing materials to be used shall indeed match existing is reasonable and necessary to impose. Furthermore, a condition to secure the submission and implementation of a detailed Construction Logistics Plan is justified in the interests of highway and pedestrian safety.
29. Details of the refuse and cycle storage facilities to be installed are illustrated upon approved plan 1803-006 Rev A, which I am satisfied would be fit-for-purpose. Nevertheless, in the respective interests of protecting amenity and of positively influencing the scheme's transport/highways impact, a condition to ensure the implementation and subsequent retention of these facilities is reasonable and necessary. There is no clear reason to dictate that external lighting needs to be controlled via condition on amenity impact grounds or otherwise.
30. A request has been made on behalf of an interested party for a condition to be imposed upon any approval to require that the building's southern flank wall does not contain installations including windows, doors, balconies or terraces. Whilst a proposed south elevation does not make up part of the suite of approved plans, the submitted floor plans can be clearly interpreted to illustrate the absence of any intended openings/installations to this elevation. As flatted properties do not benefit from permitted development rights falling under Schedule 2, Part 1 of the GPDO, any condition seeking to restrict future works to the southern flank would be unnecessary.

Conclusion

31. 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: 1803-000 Rev A; 1803-001 Rev A; 1803-002 Rev A; 1803-003 Rev A; 1803-004 Rev A; 1803-005 Rev A; 1803-006 Rev A; 1803-007 Rev A; 1803-008 Rev A; 1803-009 Rev A; 1803-010 Rev A; 1803-011 Rev A.
- 2) No development shall take place until a detailed Construction Logistics Plan has been submitted to and approved in writing by the Local Planning Authority, which shall include details of site access, journey planning, access routes (taking into consideration the existing road layout), hours of delivery, temporary traffic arrangements or restrictions, site operation times, loading and unloading locations, material storage and swept path analysis to show arrangements for haulage vehicles accessing and egressing. The development shall be carried out in full accordance with the approved Construction Logistics Plan throughout all demolition and construction works.
- 3) Notwithstanding any intended materials depicted upon the approved plans, no development shall take place until full details of the external-facing materials to be used (which shall include, to each elevation, the predominant use of brickwork to match existing) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 4) The refuse and bicycle storage facilities hereby permitted shall be implemented in full accordance with the details depicted upon approved plan 1803-006 Rev A and shall subsequently be retained at all times thereafter.