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# Appeal Decision

Site visit made on 22 February 2022

**by S Harley BSc(Hons) M.Phil MRTPI ARICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> March 2022**

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**Appeal Ref: APP/R5510/W/21/3275115**

**68-76 Albert Road, West Drayton, UB7 8ES**

- 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) Order 2015 as amended.
  - The appeal is made by Mr H Purewal, Purewal Property Ltd against the decision of London Borough of Hillingdon.
  - The application Ref 33654/APP/2020/2582, dated 19 August 2020, was refused by notice dated 17 November 2020.
  - The development proposed is creation of two additional floors above existing building to incorporate 4 x 1-bed flats (Prior Approval).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In the banner heading above I have used the description of the proposed development as set out on the decision notice and on the appeal form as this more clearly describes the proposal than the one on the planning application form.
3. 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 GPDO) the construction of up to two additional storeys of new dwelling houses on a detached blocks of flats is permitted development subject to the limitations set out at paragraph A.1 and the conditions at A.2. These require developers to apply to the local planning authority for their prior approval in relation to a number of specified matters, set out at subparagraphs (a) to (j).
4. In prior approval cases there is no requirement to have regard to the development plan as there would be where planning permission is sought. Nevertheless, the cited Policies are material considerations. The main parties have had the opportunity to comment on the relevance of the revised 2021 National Planning Policy Framework. I have noted the policies and the Framework in so far as they are relevant to the development and the subject matter of the prior approval.
5. The appeal is accompanied by a Highways Planning Ltd Statement and a revised plan Ref 2020-68-76AR-APL-1 Rev 01C in respect of car parking arrangements, electric vehicle charging and cycle storage; and Plan Ref 21.63-001 showing swept path plots. These amendments do not so alter the scheme that it would unacceptably prejudice the interests of the Council or other Parties. Accordingly I have determined the appeal on this basis.

6. On 3 February 2022 judgement in the case of CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin) (the CAB judgement) was issued. The Parties have had the opportunity to comment on its relevance.

### **Main Issues**

7. There is no dispute regarding any of the limitations on permitted development in paragraph A.1. The main issues are whether the proposed development would comply with the limitations and conditions applicable to development permitted, having regard to paragraphs:
- A.2(1)(a) transport and highways impacts of the development;
  - A.2(1)(e) the external appearance of the building;
  - A.2(1)(f) the provision of adequate natural light in all habitable rooms of the new dwelling houses; and
  - A.2(1)(g) impact on the amenity (living conditions) of the existing building and neighbouring premises.

### **Reasons**

#### *Transport and highways*

8. There is a parking area to the rear of the building although spaces are not marked out. The Council is concerned that the proposal would lead to on street parking to the detriment of the safety of highway users and exacerbating parking stress. The Council considered that 7 car parking spaces for a total of 9 flats, as originally proposed, would be enough numerically, but objected because of the restricted manoeuvring space. The amended plan shows 5 car parking spaces, and the swept path plots show that vehicles could be turned so as to exit the site in forward gear.
9. The appeal site is in an accessible location with a level 3 Public Transport Accessibility Level (PTAL) which indicates moderate access to public transport and some reliance on the private vehicle for trip making. The 2021 London Plan indicates a requirement in such a location for up to 0.75 car parking spaces for each additional one bedroomed flat. For this proposal that would mean up to three additional spaces as there is no requirement to address any shortfall that may exist at present. No additional parking spaces are proposed.
10. Albert Road is subject to a 20mph speed limit and on street parking is restricted to permit holders between 8am to 6.30pm Mondays to Fridays. Outside of these hours parking can take place subject to the availability of spaces. The Council has accepted a numerical shortfall of two spaces against their own calculations. On this basis there would be a shortfall of up to one parking space against the standards in the 2021 London Plan. No evidence has been provided about the level of parking stress or to indicate that highway safety would be unacceptably compromised as a result of such a shortfall.
11. The amended plan provides for electric vehicle charging points for each car parking space and cycle parking for the four proposed flats in an existing storage room on the ground floor. These could be secured by planning conditions.

12. I conclude that the transport and highways impacts of the proposed development would be acceptable.

*External appearance of the building*

13. The GPDO establishes the principle of enlarging the building by adding additional storeys. A building of a greater scale would naturally flow from such enlargement. As such, a denial of prior approval simply on the grounds that the result would be a bigger building would run contrary to the established principle unless it is accompanied by a deeper level of specific justification.
14. The existing three floor building is constructed of brick at ground and first floor and a tile hung mansard with dormers above. This is similar in style and scale with the building adjoining to the right as viewed from the street. To the left is a three storey brick/cladding building with an advice centre at ground floor. Elsewhere along the street are smaller scale houses.
15. Notwithstanding the decision of appeal Ref APP/J1535/D/21/3266264 (the Cedars appeal), the subsequent CAB judgement has confirmed that external appearance is not limited to impact on the subject property itself but also includes impact on neighbouring premises and the locality. In the case before me the proposal relates to a building that sits within a built up context and has a prominent street facing elevation. It is therefore appropriate to consider effects on external appearance that result from a change in its relationship with the wider context.
16. The proposed building would repeat the existing design in terms of materials roof shape and fenestration. However, although the building is detached, it has very narrow gaps between it and the neighbouring properties. As a result the proposed addition of two floors would result in an awkward, disjointed and incongruous building form projecting well above the roofs of the adjacent buildings. It would also be out of scale with the houses when viewed along the rest of Albert Road whether or not it would be intrusive in views from Fairfield Road or Norton Road. In my judgement the proposal would therefore cause unacceptable harm to the street scene.

*Living conditions in the proposed flats*

17. Two of the proposed flats would not have windows to their kitchens. For the purposes of Schedule 2 Part 20 of the GPDO 'habitable rooms' is defined as meaning 'any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms'. On this basis the small kitchens proposed would not count as habitable rooms. Adequate daylight would be available in the other rooms of the two flats and the situation would not be dissimilar to some of the other flats in the building. I conclude that adequate natural light would be available for future occupiers of the proposed flats.

*Living conditions in neighbouring premises*

18. Opposite the appeal site are two storey houses Nos 59 and 61 Albert Street. These have main front windows facing the appeal site at ground and first floors. A.2(1)(g) indicates that account should be taken of the impact on the amenity and of neighbouring premises *including* (my emphasis) overlooking, privacy and the loss of light. This is not a closed list and, notwithstanding the

views of the appellant, outlook is a matter of the same kind as those mentioned, in the sense of being clearly relevant to amenity, and can be addressed in a prior approval determination.

19. The carriageway and the footpaths on Albert Road are not particularly wide and the appeal building and the houses opposite are each set back a relatively short distance from the footpath. As a result I conclude that the height and mass of two additional floors above the three existing ones would unacceptably harm the outlook from windows at Nos 59 and 61, particularly those on the ground floors.
20. The appellant has provided some information which indicates adequate daylight and sunlight would remain available to the occupiers of Nos 59 and 61 should the extra floors be constructed. I have not seen all the detailed calculations that might normally accompany daylight and sunlight studies prepared in accordance with the BRE Trust "Site Layout Planning for Daylight and Sunlight" A Guide to good practice" (The Guide) and British Standards. However, even if I accepted the figures provided, I conclude that the harm to outlook would be such that the impact on the living conditions of occupiers of Nos 59 and 61 would be unacceptable.
21. Moreover, and although not determinative in this appeal, allowing the proposal could set a precedent whereby other buildings opposite but near to Nos 59 and 61 could be extended upwards which would further detract from the living conditions of occupiers of these and the adjacent properties.

### **Other Matters**

22. A colleague Inspector allowed The Cedars appeal. However, this related to a single additional storey, some 2.2m high, on a single dwelling. As this is much smaller in scale I do not consider it sets a precedent in relation to the appeal before me.
23. The Framework makes it clear that the three overarching objectives of sustainable development should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision should be judged. Moreover, although , the proposal would provide employment during construction, future residents would add spend within the local economy, and dwellings would be added to the local housing supply on a previously developed site, these are not the subject matters of the prior approval.
24. Reference has been made to a development that the appellant considers to have a similar or greater impact at 92/104 High Street West Drayton. I have no other details in relation to this but nothing I saw in the local area leads me to a different conclusion in respect of the appeal before me.

### **Conclusion**

25. For the reasons given above I conclude that the proposal does not meet the requirements, conditions and limitations of Schedule 2, Part 20, Class A paragraphs A.2(1)(e) or A.2(1)(g). The appeal should be dismissed.

*S Harley*

INSPECTOR