
Appeal Decision

Site visit made on 14 February 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal Ref: APP/R5510/W/21/3277547

1 Crown Close, Hayes UB3 3BJ

- 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 AA, AA.2.(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr H Farooqi against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 29491/APP/2020/4328, dated 27 December 2020, was refused by notice dated 22 February 2021.
 - The development proposed is described as, "Additional two storeys proposed to form two additional self contained flats. Principal elevations, materials and finishes to match existing. Existing entrance to flats retained. Existing storage, waste facilities retained for use of new flats. Each new bedroom proposed with adequate natural light".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Class AA of Part 20 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) planning permission is granted for new dwellinghouses on detached buildings in commercial or mixed use, subject to limitations and conditions. Class AA has been amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 4) Order 2020. However, that amendment does not take effect where a prior approval application has been submitted before 30 December 2020. Therefore, that amendment does not apply to this appeal.
3. Paragraph AA.2.(1) of Class AA sets out that developers must apply for prior approval for a range of matters. The Council's 5 reasons for refusal have been reflected in the main issues, below.
4. The Council have referred to a number of development plan policies. As the principle of development has been established through the grant of permission by the GPDO, prior approval appeals are not determined on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. However, I have taken the development plan policies into account insofar as they are relevant to the prior approval matters under consideration.
5. Reference has been made to the National Planning Policy Framework (the Framework). In line with paragraph B(15)(b) of Part 20 of Schedule 2 of the

GPDO, I have had regard to the Framework so far as relevant to the subject matters of the prior approval.

Main Issues

6. The main issues are:

- the effect of the proposal with respect to the external appearance of the building (AA.2.(1)(e));
- the effect of the proposal with respect to the impact on the amenity of neighbouring premises (AA.2.(1)(g));
- whether the building was constructed before 1st July 1948 (AA.1.(b));
- the effect of the proposal with respect to the air traffic and defence asset impacts of the development (AA.2.(1)(b)); and
- the effect of the proposal with respect to the transport and highways impacts of the development (AA.2.(1)(a)).

Reasons

External Appearance

7. The appeal site comprises a detached building which is in commercial use on the ground floor with residential accommodation above. It is situated on the corner of Crown Close and accordingly occupies a prominent position in the street scene. The adjacent building which extends around the other corner of Crown Close has a flat roof but nevertheless presents as being of a similar height to the appeal building. A distinctive feature of this part of Crown Close are the several rows of 4-storey blocks of flats, situated opposite the appeal site. Even though they nominally consist of 4-storeys the compact nature of some of the storeys means that their overall height appears broadly similar to the maximum height of the appeal property.
8. The proposal would significantly increase the height of the building via the creation of 2 additional storeys. The overall design of the proposal would mirror that of the existing building, as would the proposed details including its roof design, window format, and materials.
9. Nevertheless, the extension of the building by 2 additional storeys would mean that the building would be markedly taller than many of the immediately surrounding properties. The resulting incongruity of the building in its otherwise relatively uniform context would be particularly evident from long views along Crown Close where the contrast with the rows of flats opposite the site would be evident.
10. Moreover, the increased height of the building would unduly contrast with the height of the adjacent building which turns the corner towards Station Road. Hence, the inappropriateness of the proposal in this location would be apparent from Station Road, thereby undermining the coherence of the street scene. A 4-storey building is present on the corner of St Anselms Road and Station Road but as the appeal building is predominantly seen in the context of those buildings of similar heights which surround it, the presence of that 4-storey building does not change my findings.

11. Therefore, taking all of the above into account, I find that proposal would have an unacceptable and harmful effect on the external appearance of the building. Whilst not determinative, I have had regard to Policy BE1 of the Local Plan: Part 1¹ and Policies DMHB 11 and DMHB 12 of the Local Plan: Part 2². To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with their collective aims that, amongst other things, all new developments should achieve a high quality of design in all new buildings, alterations, extensions and the public realm which enhances the local distinctiveness of the area. The proposal would also conflict with paragraph 130 of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.

Neighbour Amenity

12. To the west of the site, directly opposite the long rear projection of the appeal building, is a building that on the evidence before me appears to form part of 59 Station Road (No 59). Windows are present on the side of that building, facing the appeal building, and are in close proximity to it. The appellant has asserted that Council tax checks confirm that this property is not in residential use. However, whilst photographs of No 59 have been provided, no evidence has been provided to substantiate any Council tax checks made. Consequently, on the basis of the limited evidence before me it is necessary to take a precautionary approach in presuming that the relevant part of No 59 is in residential use.
13. Although the additional storeys proposed would not bring the appeal building closer to the affected windows at No 59, the substantial increase in height involved would likely materially reduce the amount of light that they receive. Furthermore, the proposed extension would result in a large additional mass of built form being positioned in close proximity to those windows, which would negatively impact on the outlook from those windows. All these factors would combine to make the living spaces served by those windows much less pleasant to use as a result.
14. I therefore find that the proposal would have an unacceptable and harmful impact on the amenity of neighbouring premises (specifically No 59). Whilst not determinative, I have had regard to Policies DMHB 11 and DMHD 1 of the Local Plan: Part 2. To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with their collective aims that, amongst other things, development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space. The proposal would also conflict with paragraph 130 of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for existing users.

Construction Date

15. The appellant has provided a copy of a map, which shows the site. The appellant has stated that this map originated from an online search for old maps, and that it dates from 1965. Nevertheless, as the map itself is not dated, and the exact provenance of the map has not been provided, in my view this map does not demonstrate that the appeal building was not constructed

¹ Hillingdon Local Plan: Part 1 - Strategic Policies (adopted 2012)

² Hillingdon Local Plan: Part 2 - Development Management Policies (adopted 2020)

before 1st July 1948. I therefore find that it has not been demonstrated that the building was not constructed before 1st July 1948.

Air Traffic and Defence Assets

16. Although the appellant has made reference to measurements taken from Google Earth, the Council have provided a map which clearly shows that the site is within the 3km Air Safeguarding Perimeter from Heathrow Airport (Safeguarding Perimeter). The appellant has referred to the site as being in a Hotel Growth Location and not within a Public Safety Zone, but this does not change its status as being within the Safeguarding Perimeter.
17. The appellant has referred to mitigation measures in relation to reducing aircraft noise. However, no details have been provided as to what these might entail and accordingly I cannot be certain that any such methods would be effective. Therefore, it would not be reasonable to impose a condition in relation to this matter. In any event, mitigation measures in relation to reducing aircraft noise would not resolve the safeguarding issue with respect to the operations of Heathrow Airport.
18. I therefore find that the proposal would have an unacceptable effect with respect to the air traffic and defence assets. Whilst not determinative, I have had regard to Policy DMAV 1 of the Local Plan: Part 2. To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with its aims that, amongst other things, proposals that may be a hazard to aircraft safety will not be permitted.

Transport and Highways

19. The proposal would create 2 self-contained flats. Whilst not determinative in this appeal, Policy DMT 6 of the Local Plan: Part 2 is relevant in that it states that development proposals must comply with the parking standards outlined in Appendix C Table 1 of the Local Plan: Part 2. Table 1 states that parking for bicycles must be located in a safe, secure and accessible location. It is recognised that the site is in a very accessible location, but as the proposal could potentially entail up to 4 extra persons living on site, in addition to any persons that might already reside in the appeal building, cycle storage would be necessary to assist in mitigating the transport impacts of the proposal.
20. The appellant has stated that there would be sufficient space within the confines of each dwelling for cycle storage, and I concur that sufficient space would exist. Alternatively, the appellant has suggested that alterations could be made to the ground floor layout in order to create secure space for cycle storage. Considering that the proposal relates to the upper-floors of the building, this option would be preferred. The Council has provided a suggested condition relating to cycle parking details and on this basis I am content that should the proposal be acceptable in all other respects, a condition could be imposed requiring such details to be approved by the Council.
21. I therefore find that the proposal would have an acceptable effect with respect to the transport and highways impacts of the development. As well as Policy DMT6, the aims of which I have provided, the proposal would also comply with paragraph 111 of the Framework which provides that development should only be prevented or refused on highways grounds if there would be an

unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

22. The appellant has asserted that the proposal would result in benefits to the area with respect to the provision of 2 low-cost additional dwellings in an accessible location, and in this respect reference has been made to The London Plan (published 2021), which promotes new dwellings in sustainable locations. However, these considerations are not applicable in this case, as the GPDO offers no discretion; its requirements are a matter of legislation. As such, these matters do not change my findings on the main issues in this appeal.

Conclusion

23. Although I have found that the proposal would comply with AA.2.(1)(a) of Class AA of Part 20 of Schedule 2 of the GPDO, as the proposal would not comply with AA.2.(1)(e), nor AA.2.(1)(g), nor AA.1.(b), nor AA.2.(1)(b), prior approval cannot be given for the proposal and the appeal should therefore be dismissed.

Alexander O'Doherty

INSPECTOR