
Appeal Decision

Site visit made on 25 April 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2022

Appeal Ref: APP/R0335/W/21/3280893

Parkfield House, Cambridge Road, Crowthorne RG45 7EQ

- 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 of the Town Country Planning (General Permitted Development) (England) Order 2015, as amended (the Order).
 - The appeal is made by Elmdon Real Estate Collections Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 21/00317/PARC, dated 24 March 2021, was refused by notice dated 28 July 2021.
 - The development proposed is the construction of an additional storey of accommodation comprising: 2 no. 1 bed flats and 3 no. 2 bed flats, communal external amenity space and private amenity space for 3 of the flats.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for construction of an additional storey of accommodation comprising: 2 no. 1 bed flats and 3 no. 2 bed flats, communal external amenity space and private amenity space for 1 of the flats at Parkfield House, Cambridge Road, Crowthorne RG45 7EQ in accordance with the terms of the application Ref 21/00317/PARC, dated 24 March 2021, and the details submitted with it, subject to the additional conditions set out in the schedule below.

Preliminary Matters

2. The description of development in the banner above is taken from the application form and I have omitted wording that is not itself development. The description in my decision above substitutes 'private amenity space for 3 of the flats' with 'private amenity space for 1 of the flats' for the reasons explained in 'conditions' below.
3. Article 3(1) and Schedule 2, Part 20, Class AA of the Order grants planning permission for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building which is in a specified mixed use, together with associated engineering operations and works, subject to limitations and conditions.
4. Paragraph B(15) requires the Council to take into account any representations made to them as a result of consultation and to have regard to the National Planning Policy Framework (Framework), so far as relevant to the subject

matter of the prior approval, as if the application were a planning application. I have determined the appeal on the same basis.

5. The Council is content that the proposal would be permitted development having regard to paragraphs AA and AA.1. With the exception of paragraph AA.2(1)(e)(i), it is also satisfied that it would meet the conditions in paragraph AA.2. I have no evidence to find otherwise.

Main Issue

6. The main issue is whether prior approval can be granted having regard to paragraph AA.2(1)(e)(i) which relates to the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts a highway.

Reasons

7. The appeal building has three storeys and is in mixed use with ground floor commercial units and first and second floor flats. It is located in Crowthorne town centre facing High Street. The development would alter and extend the building upwards by one additional storey to create a third floor of flats within a new roof and a mostly four storey building. This would fundamentally alter the roof from a relatively low pitched, undulating and mostly hipped form to a steeper, mainly uniform mansard form with a raised parapet eaves level. However, there is no barrier in principle under the prior approval process, or in the Framework, for appropriate innovation or change.
8. While the eaves and ridge height of the building would be increased, whether taking just the proposal or the building overall, it would not be by an inordinate amount. Consequently, although there would be an appreciable increase in the scale and massing of built form at roof level, the building would remain well-designed and proportioned. It would also exhibit a coherent design integrity, detailing and fenestration that largely matched what exists, including external materials. Despite slate appearing more as an elevation material in the mansard roof, it would nonetheless be the same material as the existing roof and be lower in profile from parapet eaves level to ridge than the tallest part of the existing roof from eaves to ridge level.
9. In the front (west) principal elevation a roof top garden would terminate the mansard roof with a vertical gable. However, while this 'notch' would step in across about half the width of this part of the building, it would be a small proportion of the overall length of the building. It would also commence at about the same position as the start of the existing hipped roof slope, maintain the same proposed horizontal eaves line and level across the entire front elevation and broadly align with the vertical positioning of features below. It would not, therefore, unduly detract from the predominant mansard roof form or unbalance the appearance of the building.
10. The roof would take a hybrid form in the rear (east) elevation, including a more conventional dormer across most of the building. Nevertheless, the upper roof slope would appear similar in plane and extent to the narrow top part of the mansard roof and the vertical rear elevation of the dormer would appear similar in plane and extent to the steeper lower pitched part of the mansard roof. As a result, while not a mansard roof, this part of the proposed building would not appear manifestly out of keeping with the building taken as a whole.

The gable end of the mansard roof in this elevation would result in a vertical profile at a significantly higher level. However, it would be partly inset behind the parapet wall, span a smaller part of the rear elevation and return into the north elevation as a slate slope fronting Cambridge Road. It would not, therefore, be incompatible in this particular part of the building.

11. I have been referred to some appeal decisions¹ where Inspector's adopted a 'narrow' interpretation of paragraph AA.2(1)(e), limited to the effect of a proposal on the host building itself. However, these decisions pre-date relevant recent caselaw² which entertains a 'wide' interpretation of paragraph AA.2(1)(e) and effect of external appearance on the character and appearance of the area. Both main parties have, though, referred to this wider context.
12. In this regard, and in the main, pitched roofs prevail at most buildings near the appeal site and buildings gradually diminish in storeys and height in either direction further along or away from High Street. However, in the vicinity of the appeal site there are some tall buildings up to four storeys high with mansard roofs and others have gabled roofs. Though with a limited presence, this built form is nonetheless an intrinsic part of the character and appearance of the area. Moreover, most of these other buildings can be observed, at least in part, together with the appeal building and visually, the proposal would still largely read as a three storey building with a fourth floor within the roof.
13. Consequently, the increased height and mainly mansard roof form of the building would not be out of keeping taken in this wider context. It would be readily assimilated into the streetscene, including on one side steeping down in height to lower buildings. Accordingly, it would not be an overly conspicuous or dominant, individual or isolated 'landmark' building. Nor would it unduly undermine or erode the cluster of buildings or the public space in this part of High Street by the library.
14. Taking all of the above into account, I find that the external appearance of the building would be acceptable. The proposal would be consistent with aims of the Framework to achieve well-designed places, in particular paragraphs 130 a), b), c) and d).
15. The principle of the development is established by the Order and its provisions do not require regard to be had to the development plan. Nevertheless, Policy CS7 of the Council's Core Strategy 2008, saved Policy EN20 of the Bracknell Forest Local Plan 2002 and Policies CR1 and CR4 of the Crowthorne Neighbourhood Plan 2019 refer to good quality design and surrounding context. I have had regard to these policies only in so far as they are a material consideration relevant to the external appearance of the building.

Other Matters

Thames Basin Heaths Special Protection Area (SPA)

16. The appeal site is within a zone of influence of the SPA, which is a European Site³ designated for its nesting habitat for breeding birds. Any increase in residential development, either alone or in-combination with other plans or

¹ APP/T1410/W/20/3263486, APP/T5720/W/20/3265316, APP/N5090/W/21/3267852 and APP/G3110/W/21/3269650

² *Cab Housing Ltd & Others v SSLUHC* [2022] EWHC 208

³ The Conservation of Habitats and Species Regulations 2017 (as amended) 'the Habitats Regulations'

projects, is likely to have a significant effect on the integrity of the SPA, in this case due to additional recreational pressure from increased visitors to the SPA. Article 3(1) of the Order and Regulation 75 of the Habitats Regulations provide that it is a condition of any planning permission granted by the Order that development must not begin until the developer has received written notification of an approval of an application made under Regulation 77 to secure appropriate mitigation. The Council has not confirmed whether such an application has been made or approved. This is a matter for the Council to determine outside of the prior approval process.

Housing land supply

17. The appellant considers that the Council is unable to demonstrate a 5 year housing land supply. The Council has not disputed this. Although this is not a criterion for assessment under Part 20, Class AA, nonetheless 5 flats would make a modest contribution to the provision of housing in the Council's area. This would be aligned with the Government's objective in the Framework to significantly boost the supply of homes (paragraph 60).

Other interested party comments

18. The need for the proposed development is inherent within the permitted development right granted by the Order. Any effect of the proposal on a tenant or a lease with regard to service charges, insurances or any financial recompense or remuneration and effect on turnover, including related well-being issues, are private civil matters between the respective parties. Its effect on property values, sales or mortgages have no bearing on my decision. There is no substantive evidence of any procedural failing with regard to notification of the application or appeal and the number of interested party comments suggest that the proposal was widely known about.
19. There is no objective evidence that requisite engineering operations and construction works associated with the proposed development, including storage of materials and equipment, could not be carried out in a suitable or safe manner or would extend beyond the curtilage of the appeal building. The Council has not confirmed that the appeal building is in an area subject to an Article 4 Direction removing Part 20, Class AA permitted development rights. Whether the town centre should be covered by such a Direction is a matter for the Council. I have been referred to an appeal decision⁴ but it relates to Part 1 of the Order, rather than Part 20, which has different eligibility criteria (limitations or conditions). It is not, therefore, directly comparable.
20. The appeal building is in a sustainable town centre location which has a range of facilities and services, including public transport. This gives opportunity for travel other than by the private car and additional residents would support these facilities and services. There is no compelling reason to find that the proposal would result in insufficient car parking on or off the appeal site. There would be a limited number of additional windows with outlook from a higher level towards some existing dwellings or gardens, albeit no closer than similar views from existing first and second floor windows in the appeal building. While there may be a perception of increased loss of privacy, the proposal would not materially increase actual overlooking. The Council and the Highway Authority did not object to the proposal for reason of inadequate refuse or recycling

⁴ APP/L3245/D/21/3270569

provision and the Council did not object with regard to contamination of flood risk. Given the anecdotal nature of suggestions to the contrary there is no reason to find otherwise. Some noise or other disturbance is an inevitable consequence of development. However, it is temporary in duration and hours of construction and related works can be controlled to avoid unacceptable adverse impact on local residents and businesses.

Conditions

21. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class AA is subject to conditions imposed in paragraphs AA.2(3), (4), (5), (6) and (7) and the requirements of paragraph B(17). In summary, these specify that the development must be carried out in accordance with the approved details, be completed within 3 years of the date prior approval was granted and the local planning authority be notified of its completion. In addition, before beginning the development, the developer must provide the Council with a report for the management of construction of the development and once completed, every dwellinghouse in the building must remain in that use or for an ancillary purpose.
22. The Council has suggested additional conditions, including some to be discharged before development commences. The appellant has not objected to these and, having regard to paragraph B(18), they are reasonably related to the subject matter of the prior approval. Where necessary, I have amended wording in the interests of clarity and have considered the tests in Framework paragraph 56 and Planning Practice Guidance⁵.
23. Prior to the Council's decision revised plans were submitted. An additional condition to specify the approved plans would ensure certainty (1). It is also necessary to secure details and samples of external materials so that the development integrates with the appearance of the appeal building and because some new materials are proposed (2). In this regard, some of the 'as proposed' elevation plans⁶ refer to parapet walls 'built up in brick to match existing' but the upper parts of the second floor are rendered.
24. It is necessary to ensure that re-allocated parking spaces on the appeal site make satisfactory provision for existing and future occupiers of the flats and for businesses and visitors (3). Construction would take place near existing dwellings and businesses so it is necessary to ensure that working arrangements would not result in undue noise or other disturbance, including at anti-social hours (4). Conditions are also necessary to avoid unacceptable loss of privacy to the occupiers of some nearby dwellings (5)(6).

Conclusion

25. For the reasons given above, I conclude that the appeal should succeed and prior approval should be granted.

Robin Buchanan

INSPECTOR

⁵ Paragraph 21a-003-20190723

⁶ Drawing numbers 1151P 210B and 1151P 213B

Schedule of Additional Conditions (6)

- 1) In concert with paragraph B(17) of Part 20, the development hereby granted prior approval shall be carried out in accordance with the following approved plans and documents:

- 1151P 01B Site location plan
- 1151P 201B Proposed Block/ground floor plan
- 1151P 202A Proposed 2nd floor plan
- 1151P 203C Proposed 3rd floor plan
- 1151P 204A Proposed roof plan
- 1151P 210B Proposed west (front) elevation plan
- 1151P 211A Proposed north elevation plan
- 1151P 212C Proposed east elevation plan
- 1151P 213B Proposed south elevation plan
- 1151P 214 Proposed section a-a plan
- 1151P 300 Details of refuse and recycling store plan
- Cycle store details Product images and specification 'BDS Cycle Shelter - 6/8 Space Cycle Shelter & Bike Stands (Mini)' by Bikelock Solutions
- 2021221 001 Transport Statement, including Travel Plan Statement by Development Planning Limited, March 2021
- 1151DAS01A Design Statement by Fleck, 24 March 2021
- FW219 Planning Eligibility Assessment by Forward Planning and Development, 24 March 2021

- 2) Notwithstanding condition 1, no development shall commence until there shall have been submitted to and approved in writing by the local planning authority details and samples of the materials to be used in the construction of the external surfaces. The development shall be carried out in accordance with the approved details and samples.

- 3) Notwithstanding condition 1, no development shall commence until there shall have been submitted to and approved in writing by the local planning authority details of layout or surface marking and signage for car parking spaces at the site as follows:

- 21 allocated resident spaces for 21 flats (1 space per flat) and 3 visitor spaces
- 4 allocated spaces for 4 commercial units (1 space per unit) and 2 unallocated spaces

The development hereby granted prior approval shall not be first occupied until the approved car parking details have been implemented. The car parking shall thereafter be retained in accordance with the approved details.

- 4) Notwithstanding condition 1, no development shall commence until the details required by Part 20 paragraph AA.2(4), and details of arrangements for the storage of materials, loading and unloading of plant and the provision of site operative welfare facilities and parking, shall have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented at the site for the duration of the construction works.
- 5) The development hereby granted prior approval shall not be first occupied until there shall have been submitted to and approved in writing by the local planning authority details of a screen to be installed on the east end of the 'roof terrace' shown in approved drawing number 1151P 203C (annotated for 'flat 22') and the approved screen details have been implemented. The screen shall thereafter be retained in accordance with the approved details.
- 6) The 'green roofs' shown in approved drawing number 1151P 203C (annotated for 'flat 18' and 'flat 19') shall not be used as a roof terrace.