



Appeal Decisions

Site visit made on 24 May 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal A: Appeal Ref: APP/N5090/W/21/3279994 **25 The Burroughs, London NW4 4AR**

- 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 3, Class O, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Schleider of Farcastle Group against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1683/PNO, dated 24 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is change of use from office (Class B1) to residential (Class C3) 7 units.
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Appeal B: Appeal Ref: APP/N5090/W/21/3279997 **25 The Burroughs, London NW4 4AR**

- 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 3, Class O, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Schleider of Farcastle Group against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1686/PNO, dated 23 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is change of use from office (Class B1) to residential (Class C3) 5 units.
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Decision

Appeal A: Appeal Ref: APP/N5090/W/21/3279994

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use from office (Class B1) to residential (Class C3) 7 units at 25 The Burroughs, London NW4 4AR in accordance with the application Ref 21/1683/PNO, dated 24 March 2021, and the details submitted with it pursuant to Schedule 2, Part 3, Class O of the GPDO, subject to the additional conditions set out in the Schedule at the end of this decision.

Appeal B: Appeal Ref: APP/N5090/W/21/3279997

2. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended) (the GPDO) for the change of use from office (Class B1) to residential (Class C3) 5 units at 25 The Burroughs, London NW4 4AR in accordance with the application Ref 21/1686/PNO, dated 23 March 2021, and the details submitted with it pursuant to Schedule 2, Part 3, Class O of the GPDO, subject to the additional conditions set out in the Schedule at the end of this decision.

Preliminary Matters

3. As set out in the heading above, there are two appeals on this site. They differ primarily in the detail of the internal layout and the number of residential units proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together.
4. There is some variation in the location and description of the development as given on the application forms, decision notices and subsequent appeal documents. In respect of both appeals, I have taken the location and the description of the development from the Council's decision notices, as I consider that these accurately reflect the proposals.

Main Issues

5. The main issues in this appeal are the:
 - Provision of adequate natural light in all habitable rooms of the dwellinghouses; and
 - Transport and highways impacts of the development.

Reasons

Natural Light

6. The Council has expressed concern that a number of windows of the proposal would be heavily shaded. Particular concern is expressed in relation to windows looking onto an entrance tunnel, although reference has also been made to the relationship with other buildings around the site.
7. The provision of adequate natural light is not defined in the GPDO. The appellant has sought to address this through the submission of an Internal Daylight Assessment (IDA) report which refers to the criteria established by the Building Research Establishment (BRE). In particular, guidance as set out within the BRE's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice . Based on the evidence before me, the BRE guidance is a suitable basis on which to consider whether the proposal would provide adequate natural light for future residents.
8. Using the BRE guidance, the IDA report refers to the Average Daylight Factor (ADF), where the BRE Guidance refers to a recommended value of 1% for a bedroom, and 2% for a living/kitchen/dining room. The IDA Report sets out that the rooms of the proposal would exceed the recommended ADF values.
9. The Council submits that it was unclear from the IDA report if the relationship with nearby buildings, including the access tunnel, had been modelled. The Council also refers to a real world inspection and that the proposed windows within the entrance tunnel would be heavily shaded and would not provide adequate natural light.

10. However, the appellant has provided further detailed evidence as part of the appeal, where the consultants who prepared the IDA report confirm that the surrounding buildings had been included in the modelling.
11. I was able to view inside the property, and this confirmed that the conclusions of the IDA report are not unrealistic. I am mindful of the size and aspect of the proposed units referred to by the Council, but consideration of these matters does not lead me to a different conclusion on the levels of natural light based on what I have seen and read.
12. I conclude that, based on the evidence before me, the proposals in respect of both Appeal A and Appeal B would provide adequate natural light in all habitable rooms. The proposals would therefore accord with condition 0.2.(e) of Schedule 2, Part 3, Class O of the GPDO.
13. Insofar as they are relevant to the consideration of this issue, both Appeal A and Appeal B would not conflict with the amenity considerations of policy DM01 of the Council's Development Management Policies 2012 (DMP) or the Sustainable Design and Construction SPD 2016.

Transport and Highways Impacts

14. The proposals would not provide on-site car parking for residents. However, the Council does not object in principle to the lack of parking provision, given the relatively accessible location of the site. The Council's concerns on this matter stem from the lack of cycle parking, which may increase pressure for car ownership.
15. The practicality of the provision of cycle parking was considered by the Council, which refers to uncertainty regarding the appellant's ownership of a courtyard area next to the appeal site. It was also not considered appropriate to require the provision of on-street cycle parking due to the location of the site near to a junction. However, as part of the appeal the appellant has confirmed that they are the freeholders of the wider site including the courtyard area. As such, the provision of cycle parking can be addressed by an appropriately worded condition.
16. Subject to a condition in respect of cycle parking, I conclude that the proposals in respect of both Appeal A and Appeal B would have no adverse transport and highways impacts and they would therefore accord with condition 0.2.(a) of Schedule 2, Part 3, Class O of the GPDO.
17. So far as they are relevant to these appeals, both Appeal A and Appeal B would not conflict with the highway safety and transport considerations of policy T5 of the London Plan 2021, Policy CS9 of the Council's Core Strategy 2012, and Policy DM17 of the DMP. The proposal would also not conflict with the National Planning Policy Framework in respect of promoting sustainable transport.

Other Matters

18. The site is within the Hendon The Burroughs Conservation Area (CA). Whilst the proposal would change the nature of the use of the site, this would not be out of character for the CA. Any external alterations, including refuse and cycle storage, would be of limited impact on character and appearance. The Council has not raised any concerns in this respect and I consider that the proposals would preserve the character and appearance of the CA.

19. Comments raised locally have referred to waste storage in this area. However, this matter in relation to the appeal proposals can be addressed by an appropriate condition. Comments have also been made in respect to the form of accommodation provided and the pressure on services in this area, however these are not matters which fall within the remit of the prior approval process.

Conditions

20. Any planning permission granted under Schedule 2, Part 3, Class O of the GPDO is subject to the condition that it must be completed within a period of 3 years of the prior approval date. In respect of both appeals, a condition regarding the approved plans is necessary in the interests of certainty. I have not referred to the existing plans and elevations and supporting information such as the IDA report as well as PTAL and flood maps as these are not part of the development proposed.
21. Conditions in respect of cycle parking are required in the interests of sustainable transport. Conditions in respect of refuse storage and a construction method statement are required in the interests of highway safety and the living conditions of residents. Conditions requiring details of noise mitigation are appropriate in respect of the living conditions of future residents.
22. The Council's Traffic and Development consultee has suggested a condition in respect of a Condition Survey of the public highway. However, given the scale of the proposal and other controls in respect of this matter I do not consider this condition to be reasonable or necessary.

Conclusion

23. For the reasons given above, I conclude that the appeals should be allowed.

David Cross

INSPECTOR

Conditions Schedule - Appeal A

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 2021.29.5; TB.25.PR201 - Proposed Floor Plans.
- 2) Prior to occupation of the development, details of cycle parking including the type of stands, gaps between stands, location and type of cycle store in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before the development hereby permitted is occupied, cycle parking in accordance with the details approved under this condition shall be provided and shall not be used for any purpose other than parking of cycles in connection with the approved development.
- 3) Before the permitted development is occupied, details of refuse storage and collection arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall only be operated in accordance with the approved details under this condition.

- 4) No site works including demolition or construction work shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement submitted shall include, but not be limited to, the following information:
- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractor's compound and car parking arrangements;
 - ix. Details of interim car parking management arrangements for the duration of construction;
 - x. Details of a community liaison contact for the duration of all works associated with the development.
 - xi. Provision of a competent banksman.

The development shall thereafter be implemented in full accordance with the details approved under this Statement.

- 5) No development shall take place until a scheme of proposed noise mitigation measures against externally generated traffic/mixed use noise has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or the first occupation of the development and retained as such thereafter.

Conditions Schedule - Appeal B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 2021.29.5; TB.25.PR01 - Proposed Floor Plans.
- 2) Prior to occupation of the development, details of cycle parking including the type of stands, gaps between stands, location and type of cycle store in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before the development hereby

permitted is occupied, cycle parking in accordance with the details approved under this condition shall be provided and shall not be used for any purpose other than parking of cycles in connection with the approved development.

- 3) Before the permitted development is occupied, details of refuse storage and collection arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall only be operated in accordance with the approved details under this condition.
- 4) No site works including demolition or construction work shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractor's compound and car parking arrangements;
 - ix. Details of interim car parking management arrangements for the duration of construction;
 - x. Details of a community liaison contact for the duration of all works associated with the development.
 - xi. Provision of a competent banksman.

The development shall thereafter be implemented in full accordance with the details approved under this Statement.

- 5) No development shall take place until a scheme of proposed noise mitigation measures against externally generated traffic/mixed use noise has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or the first occupation of the development and retained as such thereafter.

End of Schedules