



Appeal Decisions

Site visit made on 20 September 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal A - Ref: APP/N5090/W/21/3288953

Flat 25-28 Buckingham Court, 27 Watford Way, London NW4 4TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr Dujon (Propkob Limited) against the decision of the Council of the London Borough of Barnet.
- The application Ref 21/4491/PNV, dated 12 August 2021, was refused by notice dated 11 October 2021.
- The development proposed is Two storey upward extension to create 4no self-contained flats. Associated cycle stores.

Appeal B - Ref: APP/N5090/W/22/3290749

Flat 25-28 Buckingham Court, 27 Watford Way, London NW4 4TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Dujon (Propkob Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/5769/PNV, dated 29 October 2021, was refused by notice dated 21 December 2021.
 - The development proposed is Two storey upward extension to create 4no self-contained flats. Associated cycle stores.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Two storey upward extension to create 4no self-contained flats. Associated cycle stores at Flat 25-28 Buckingham Court, 27 Watford Way, London NW4 4TD in accordance with the application Ref 21/5769/PNV made on 29 October 2021, and the details submitted with it including plan no.s BKNGM-P001, BKNGM-P002, BKNGM-P003, BKNGM-P004, BKNGM-P201, BKNGM-P202, BKNGM-P203, BKNGM-P204, BKNGM-P205, BKNGM-P206, BKNGM-E001, BKNGM-E002, BKNGM-L001, BKNGM-L201, BKNGM-E201 & BKNGM-E202 pursuant to Article 3(1) and Schedule 2, Part 20, Class A, and subject to the following conditions:

- 1) Notwithstanding the plans hereby approved, before any of the new flats are first occupied, details of cycle parking spaces and cycle storage facilities which shall be 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. The facilities shall thereafter be implemented in accordance with the agreed details before any of the new flats are occupied and shall thereafter be retained for the lifetime of the development.

2) Notwithstanding the plans hereby approved, before any of the new flats are first occupied, details of the enclosure for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable together with a satisfactory point of collection, shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be implemented in accordance with the agreed details before any of the new flats are occupied and shall thereafter be retained for the lifetime of the development.

3) The proposed parking spaces as shown in drawing no.BKNGM-P201 and the access to the parking area from public highway shall be provided before any of the new flats are first occupied and the access and parking spaces shall be maintained at all times for their intended use for the lifetime of the development.

Application for costs

3. Applications for costs were made by Mr Dujon (Propkob Limited) against the Council of the London Borough of Barnet. These applications are the subject of separate Decisions.

Procedural Matter

4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 20, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to Policy CS5 of the Barnet's Local Plan Core Strategy (2012) and Policy DM01 of Barnet's Local Plan Development Management Policies (2012) only in so far as they are a material consideration relevant to matters of siting and appearance. I have not been supplied with residential design guidance.

Preliminary Matters and Main Issues

5. 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), planning permission is granted for development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats along with associated works detailed by the GPDO, subject to limitations and conditions.
6. Schedule 2, Part 20, Class A, A.(c) allows for works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases. This matter forms a main issue.
7. Where development under Class A is proposed, the developer must apply to the local planning authority for prior approval of the authority as to a range of matters.
8. One such matter is the external appearance of the building - A.2 Conditions(1)(e). Another matter is impact on the amenity of the existing building and neighbouring premises including overlooking and privacy – A.2 Conditions (1). These matters therefore also form main issues.

Reasons

9. Both appeals propose the addition of an external stair tower. However, that in relation to Appeal A includes the provision of unspecified space at ground floor level, meter rooms at first and second floor level along with space that would be included within the floorspace of the flats at third floor and loft level.
10. Such works would extend beyond those permitted by Schedule 2, Part 20, Class A, A.(c) which relates solely to works relating to appropriate and safe access and egress.
11. There are further areas of disagreement with regard to Appeal A. However, regardless of these matters, the evidence before me is clear that the proposal would not meet the conditions, limitations or restrictions applicable to enable it to be permitted development under Schedule 2, Part 20, Class A paragraph A.(c).
12. Given that this is the case I will not make any determination on the prior approval matters for Appeal A on which there are further areas of disagreement between the parties. Appeal A should therefore be dismissed.
13. There is nothing to indicate the stairwell extension proposed under Appeal B which has been amended and which does not include such uses and which solely incorporates a stair well which would be required to access the flats on the third and loft floor would not be permitted development. The plans indicate that additional hardstanding would be provided but amongst other things this would include areas for cycle storage and some additional car parking adjacent to the building.
14. However, I see no reason why these works could not be included under Schedule 2, Part 20, Class A, A.(d) which allows for works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

External appearance

15. Whilst the stairwell would be of a rather utilitarian design it would remain subordinate to and would be set below the overall height of the extended building, which in itself is of a standard and modern design with the evidence indicating that matching materials would be used. It would be set to the rear elevation and would not be especially prominent in public views, particularly when taking account of the setting of the building behind Watford Way and the extensive and sometimes tall tree screening to the west adjacent to the M1.
16. Stairwells are a feature of the area and the evidence indicates the presence of one close to the site on the block of flats immediately to the south. The proposal would therefore be acceptable with regard to the external appearance of the building.

Overlooking and privacy

17. The building is already fitted with a range of windows and openings to the east facing elevation. The provision of windows within the eastern elevations of the two new floors would result in some limited additional overlooking and very limited loss of privacy to the rear elevations of properties from No.s 307-321 Watford Way which are set to the east of the site.
18. However, such loss would be very minor given the distances between the building which is the subject of the appeal which the evidence indicates to be well in excess of 20m. At such distances, views from the new floors into the properties to the east would be extremely limited.

19. There would be some overlooking towards the gardens but given the properties on this section of Watford Way are two storey and given the arrangement on the eastern elevation of the appeal building, it will be possible to see from existing properties into adjacent gardens at present.
20. The proposal would therefore be acceptable with regard to impact on the amenity of the existing building and neighbouring premises including overlooking and privacy.
21. I have not found conflict with the Framework¹ in relation to these matters to which I must have regard so far as relevant to the subject matter of the prior approval.

Other Matters

22. I note concerns about privacy and overlooking. However, given that I have found that the proposal would be acceptable with regard to impact on the amenity of neighbouring premises including with regard to privacy and overlooking it would not breach the requirements of Article 1 of the First Protocol 'protection of property' to the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
23. There is nothing sufficiently authoritative to suggest that the proposal would be unacceptable with regard to loss of light or flooding risks. No concerns have been raised by the Council with regard to impact on Wheatley Close to the north or with regards to Appeal B, transport and highways impacts. I have no reason to disagree.

Conditions

24. Appeal B is subject to the conditions set out above in the interests of the character and appearance of the area and highways matters which are reasonably related to the subject matter of the prior approval.
25. Those set out in Schedule 2, Part 20, Class A, A.2 are also applicable to Appeal B which require that the development must be completed within a period of 3 years starting with the date prior approval is granted and which require the submission of a report for the management of the construction of the development before it is begun. The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

Conclusion

26. For the reasons given above, I conclude that Appeal A should be dismissed. Appeal B should be allowed and prior approval should be granted.

TJ Burnham

INSPECTOR

¹ National Planning Policy Framework 2021.