



Appeal Decision

Site visit made on 26 October 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Appeal Ref: APP/M5450/W/21/3289938
274-278 Northolt Road, London HA2 8EB

- 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), Schedule 2, Part 20, Class AA of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Parklands Management against the decision of London Borough of Harrow.
 - The application Ref P/3978/20/PRIOR, dated 17 November 2020, was refused by notice dated 5 August 2021.
 - The development proposed is two additional storeys, with a total of 8 no. self contained residential units.
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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) Order 2015 (as amended) for two additional storeys, with a total of 8 no. self contained residential units at 274-278 Northolt Road, London HA2 8EB in accordance with the terms of the application, P/3978/20/PRIOR, including the plans submitted with it and the conditions set out in the Schedule to this decision.

Applications for costs

2. An application for costs was made by Parklands Management against the London Borough of Harrow. This application is the subject of a separate decision.

Procedural Matters

3. The appellant has indicated that the application originally submitted was advanced under Schedule 2, Part 20, Class AA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, the Council contends that the building is not detached failing to comply with the terms of Class AA of the GPDO and considered the application under the provisions of Class AB of the GPDO. As the application was originally submitted under the provisions of Class AA of the GPDO I have considered the appeal on this basis.
4. Class AA of Part 20 of the GPDO permits up to two additional storeys of new dwelling houses immediately above the topmost storey on a detached building in commercial or mixed-use. For the purposes of the GPDO "detached" means that the building does not share a party wall with a neighbouring building. As

both parties have referred to this definition, I have used this in consideration of the appeal.

5. The appellant has produced a planning obligation by Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. The UU would restrict possession of parking permits for future occupiers in order to ensure a car-free development.

Main Issue

6. The main issue is whether the development would accord with the provisions of Class AA.

Reasons

7. There is considerable debate between the main parties regarding whether the appeal building is detached and in turn whether the appeal proposals fall within the provisions of Class AA or Class AB. This is the single issue of contention between the parties.
8. The appeal site comprises a three-storey mixed use building located within a local centre constructed from brick and zinc panels with a flat roof design. The neighbouring property, No 280, is a two-storey mixed use building constructed from brick with a tiled pitched roof.
9. As set out earlier the GPDO defines "detached" as a building that does not share a party wall with a neighbouring building. There is no definition of what constitutes a party wall within the GPDO, however, the appellant has drawn my attention to the Party Wall etc Act (1996) (the Act) and diagrams in the accompanying explanatory booklet. The Act defines a "party wall" as a wall that stands astride the boundary of land belonging to two (or more) different owners.
10. The Council accept that the appeal building does not share a party wall with the neighbouring property. On this basis and having regard to the conditions of Class AA one can only therefore conclude that the proposed development complies with the provisions of the Class AA and is permitted. I share the appellant's view that the Council's assessment should have not gone beyond this point. As such, the Council's consideration and interpretation of other definitions in the GPDO are somewhat superfluous.
11. I acknowledge that to the casual observer the appeal building appears to adjoin No 280 forming part of the retail parade. However, determination of whether or not the building is detached for the purposes of the GPDO should go beyond a visual inspection. I have paid regard to the appellant's evidence demonstrating that there is a gap between the building and no party wall between the appeal building and No 280. I am satisfied that the evidence before me, sufficiently demonstrates that the building is detached for the purposes of Class AA.
12. Whilst previous applications may have referred to the appeal building as forming part of the terrace this is in the context of describing the site and its surroundings and not in the context of the legislation and its qualifying criteria. As such, I give this element of the Council's argument very limited weight.

Conditions

13. Standard conditions are set out in paragraph AA.2 of the GPDO, whilst paragraph B(18) allows further conditions to be imposed that are reasonably related to the subject matter of the prior approval.
14. A condition for the bins to be stored in a dedicated area, except on collection days has been imposed in the interests of ensuring a satisfactory appearance.
15. Whilst the appellant has provided the type of cycle shelter proposed details of its location have not. Therefore, in the interest of securing sustainable development a condition for details for secure and covered cycle parking has been imposed.
16. A condition for the materials to match the host building is not necessary as sufficient information is shown on the plans. Furthermore, I have not imposed a plans condition, as the GPDO provides that development must be carried out in accordance with the details approved.

Conclusion

17. For the reasons set out above the appeal succeeds and prior approval is granted.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The refuse bins shall be stored at all times, other than on collection days, in the designated refuse storage area, shown on Ground Floor Plan Drawing Number BR/802/301/A.
- 2) The development shall not be occupied until sheltered and secure cycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the local planning authority. The cycle parking shall be retained thereafter for the lifetime of the development.