

Appeal Decision

Site visit made on 17 November 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/N5090/W/22/3297252

60A Purley Avenue, Brent, London NW2 1SB

- 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 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Domino Ltd c/o Audley Property against the decision of London Borough of Barnet.
 - The application Ref 21/6073/PNZ, dated 12 November 2021, was refused by notice dated 25 January 2022.
 - The development proposed is notification for prior approval for demolition of existing building and construction of residential apartment block to provide 5 residential flats (C3).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application form I have been provided has been redacted. Therefore, for the purposes of my Decision, I have taken the site address, appellants name and details of the proposal from the covering letter with the application, dated 12 November 2021.

Background and Main Issue

3. The appeal building comprises a former industrial unit with a cleared area for parking at the front of the site.
4. Schedule 2, Part 20, Class ZA of the (General Permitted Development) (England) Order 2015 (as amended) ('GPDO') sets out that development is classed as permitted development if it consists of works for the demolition of one or other of (a) any building comprising a single purpose-built detached block of flats, and (b) any other single detached building, comprising premises established (i) for office use falling within Class B1(a) of the Schedule to the 1987 Order, (ii) for research and development falling within Class B1(b) of the Schedule to the 1987 Order, or (iii) for an industrial process falling within Class B1(c) of the Schedule to the 1987 Order, or for any combination of them, existing on 12 March 2020, together with its replacement by a single building covered by sub-paragraph (2), involving operations listed in sub-paragraph (3). (2) The building in question is to comprise one or other of (a) a purpose-built detached block of flats, or (b) a purpose-built detached dwellinghouse.
5. This is subject to a number of situations where such development is not permitted, listed under paragraph ZA1 of the GPDO, and, subject to compliance

with conditions, as set out under paragraph ZA2 of the GPDO. The Council has not raised any issues in respect of paragraphs ZA1 or ZA2 of the GPDO and I have no reasons to disagree.

6. In this case, the Council has raised an issue in relation to the proposed replacement building, which needs to comprise a purpose-built detached block of flats, or a purpose-built detached dwellinghouse. There is no disagreement between the main parties that the replacement building would not be a purpose-built detached dwellinghouse.
7. Accordingly, the main issue is whether the proposed development would be permitted development under Schedule 2, Part 20, Class ZA of the GPDO, with regard to whether or not the replacement building comprises a purpose-built detached block of flats.

Reasons

8. There is no definition or interpretation of a 'block of flats' under Class ZA of the GPDO. As such, this is matter of planning judgement for the decision maker to decide whether, as a matter of fact and degree the proposal comprises a block of flats.
9. Nevertheless, the Council has referred me to the interpretation for the purposes of Part 20 of the GPDO, as set out in the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England)(Coronavirus) Regulations 2020. This states that: block of flats "means a building which is divided horizontally and consists of separate and self-contained premises constructed for use for the purposes of a dwellinghouse, and any ancillary facilities constructed solely for use by occupiers of the building". In the absence of any other definition, I have had regard to this in determining this appeal.
10. The proposed scheme incorporates a single point of shared access into the development and includes communal facilities, such as shared refuse storage and parking areas to the front of the building. There is also a shared cycle storage area. However, it is not uncommon for other types of developments, such as a small scheme of houses to have shared recycling storage facilities and communal parking. Hence, whilst I acknowledge that communal facilities are common for blocks of flats, they are not exclusive to, or determinative of this type of development.
11. Moreover, in my judgement, the principal and defining characteristic for a block of flats is the horizontal division of self-contained accommodation, constructed for use for the purposes of a dwellinghouse. In contrast, the proposed scheme is arranged as a row of individual dwellinghouses, laid out so that each property is over 2 or 3 floors, with the individual dwellinghouses divided vertically. Each dwellinghouse has its own private garden to the rear and its own front door accessed from ground floor level. As such, the proposed arrangement is more akin to a terrace of dwellings than a block of flats.
12. Therefore, the replacement building does not comprise a purpose-built detached block of flats. As such, the proposal would not be permitted development under the provisions of Schedule 2, Part 20, Class ZA of the GPDO.

Conclusion

13. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR