



Appeal Decision

Site visit made on 24 February 2023

by S Edwards MA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/F5540/W/22/3297229
250 Gunnersbury Avenue, London W4 5QB

- 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 ZA of the Town and Country Planning (General Permitted Development) Order (England) Order 2015 (as amended).
 - The appeal is made by Abrigo Estates Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00535/250/PA2, dated 1 December 2021, was refused by notice dated 24 January 2022.
 - The development proposed is demolition of existing commercial buildings and construction of new residential apartment block (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the demolition of buildings and the construction of new dwellinghouses in their place, subject to limitations and conditions.
3. As detailed within the GPDO¹, development under Class ZA is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for prior approval. The Local Planning Authority may refuse the application where it considers that the proposal does not comply, or where the developer has provided insufficient information to enable the Local Planning Authority to establish whether the proposal complies with the relevant conditions, limitations or restrictions that are applicable to such permitted development.
4. The provisions of the GPDO require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations. Furthermore, development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

¹ Part 20, Class ZA, paragraph AA.2(3).

5. Amended plans² were submitted as part of this appeal, which did not form part of the application determined by the Council. These plans introduce changes to the internal layout of the first, second, third and fourth floor plans to increase the width of some of the bedrooms. Having regard to the Wheatcroft principles³, I consider that the proposed changes would not fundamentally alter the nature of the development previously consulted upon and determined by the Council. As such, I am satisfied that my consideration of these amended plans would not prejudice anyone's case in the appeal. I shall therefore determine the appeal on the basis of the submitted drawings, together with the amended plans.
6. There is another appeal (APP/F5540/W/22/3296413) on this site which relates to a different proposal, and will therefore be the subject of a separate decision.

Main Issues

7. The main issues are:

- Whether the proposals would provide satisfactory living conditions for future occupiers of the development, with particular regard to natural light and the size of the accommodation; and
- The effect of the proposal on the objectives of the area's classification as a Locally Significant Industrial Area.

Reasons

Living conditions

Natural light

8. The appeal scheme seeks to demolish a purpose-built office block and replace it with a residential apartment block consisting of 19 flats. As part of the prior approval process, the Local Planning Authority is required to consider whether adequate natural light would be provided in all habitable rooms of each new dwellinghouse in or comprising the new building (ZA.2.(2)(f)). In particular, the concerns of the Council relate to the proposed bedrooms with a sole outlook on the southern elevation, and the habitable rooms at ground floor level.
9. The Daylight and Sunlight Report submitted as part of the appeal includes an assessment of interior daylighting, using an Average Daylight Factor test. As the previous British Standard BS 8206-2:2008 (Lighting for Buildings) was replaced in June 2019 by BS EN 17037:2018 (Daylight in Buildings), the Average Daylight Factor for new accommodation has however been deleted and replaced. I have nevertheless had regard to the Daylight and Sunlight Report, as this is the only technical analysis available.
10. The Daylight and Sunlight Report shows that in a number of habitable rooms, some areas would receive no direct sky light. Based on the information shown within the Report, I am particularly concerned with the two-bedroom units at first and second floor levels, where the living areas would be served by windows situated to the south elevation. I am mindful that these windows would be within relative proximity to the neighbouring site, and given that a

² Drawings Nos PL001A (Proposed First Floor Plan), PL002A (Proposed Second Floor Plan), PL003A (Proposed Third Floor Plan), PL004A (Proposed Fourth Floor Plan).

³ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

noticeable part of these living areas would receive no direct sky light, this would result in a gloomy living environment where supplementary electric lighting is likely to be required.

11. Furthermore, it is noted that the assessment includes a number of windows to the southern elevation (nos 16, 30, 44 and 58), which are not shown on the proposed plans. To my mind this casts doubt regarding some of the findings of the Daylight and Sunlight Report. For all these reasons, the available evidence does not demonstrate that adequate natural light would be provided to all habitable rooms.
12. I accept that paragraph 125c) of the Framework advocates a flexible approach in applying the guidance relating to daylight and sunlight. However, there is no substantive evidence before me which demonstrates that this layout represents the only way of developing this corner plot and that the application of daylight and sunlight guidance would otherwise compromise the ability to provide additional dwellings and make efficient use of the site.

Size of the accommodation

13. Article 3(9A)(b) of the GPDO provides that Schedule 2 does not permit any new dwellinghouse where the gross internal floorspace is less than 37 square metres or that does not comply with the nationally described space standard (NDSS) published by DCLG (now DLUHC) on 27 March 2015. As detailed above, the appellant has submitted amended plans to address the concerns raised by the Council regarding the width of Bedroom 2 in all the 2-bedroom units. The amended plans show that these bedrooms would be at least 2.15 metres wide, and would therefore comply with the requirements of the NDSS.
14. Overall, and having regard to the proposed layout shown on the revised plans, the size of the proposed accommodation would be satisfactory. However, for the reasons detailed above, I cannot be satisfied that adequate natural light would be provided in all habitable rooms.

Locally Significant Industrial Area

15. As detailed in paragraphs ZA.2(i) of Schedule 2, Part 20, Class ZA of the GPDO, the prior approval process requires the Local Planning Authority to assess the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place. The appeal scheme would result in the loss of a purpose-built office block, the acceptability of which is implied by Class ZA, as it notably permits the demolition of a building comprising premises established for office use.
16. The appeal site is located within the Power Road Industrial Estate, which contains a mix of light industrial uses and is formally designated as a Locally Significant Industrial Site (LSIS). LSIS are defined as employment areas of Borough wide significance providing industrial and warehousing capacity. Amongst other things, Policy ED2 of the Local Plan 2015-2030 seeks to ensure that development proposals do not compromise the objectives of LSIS designations.
17. The appellant's submissions are supported by a map of the commercial premises located within proximity to the appeal site, which include varying types of uses, including car showrooms, garage services, offices and studios. This is consistent with my own observations. Whilst the appeal site lies within

an industrial estate, the Council has presented no detailed evidence to demonstrate that these neighbouring uses operate or need to operate on a twenty-four-hour basis and would give rise to a level of noise, which would be incompatible with the introduction of residential development on the site. I am also mindful that the site lies within an urban area and next to a busy thoroughfare, where some degree of noise would have to be expected by future occupiers of the development.

18. Overall, and in the absence of substantive evidence to the contrary, I have no reasons to reach the view that the appeal scheme would have an adverse effect on business in the area or compromise the objectives of the Power Road Industrial Estate as a LSIS.

Conclusion

19. The appeal scheme would enable the construction of additional dwellings of a satisfactory size and would not compromise the aims of the LSIS. However, the proposal would fail to provide adequate natural light to all habitable rooms and for this reason, I conclude that prior approval should be refused, and the appeal should be dismissed.

S Edwards

INSPECTOR