



Appeal Decision

Site visit made on 21 November 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2023

Appeal Ref: APP/T0355/W/23/3319365

Ascentia House, Lyndhurst Road, Ascot SL5 9ED

- 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) (GPDO).
 - The appeal is made by Miss Sharandeep Kaur Singh on behalf of Howarth Homes PLC against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 23/00014/PT20ZA, dated 3 January 2023, was refused by notice dated 23 March 2023.
 - The development proposed is described as 'redevelopment of the site to provide up to 20 units with associated access, parking, hard standing and landscaping'.
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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 ZA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the redevelopment of the site to provide up to 20 units with associated access, parking, hard standing and landscaping at Ascentia House, Lyndhurst Road, Ascot SL5 9ED in accordance with the terms of the application, Ref 23/00014/PT20ZA, dated 3 January 2023, and the details submitted with it, subject to the additional conditions set out in the attached schedule.

Background and Main Issues

2. The principle of the development is established by Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Class ZA permits the demolition of buildings and construction of new dwellinghouses in their place, providing it meets the criteria contained in paragraph Z.A. The Council considers that the proposal does not comply with the limitations in Para ZA1(j) (i) and Paragraph ZA1(k) of the GPDO in relation to the height of the building and number of additional storeys proposed and would therefore not constitute permitted development.
3. Paragraph ZA.2(2) of the GPDO requires that where any development under Class ZA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for the prior approval as to specified matters. In addition to the assertion that the proposal would not constitute permitted development, the Council refused prior approval due to the considered effect in relation to (e) the external appearance of the new building.
4. The main issues are therefore whether the proposed development would be permitted development under the provisions of Schedule 2, Part 20, Class ZA

of the GPDO and if so, whether the external appearance of the proposed building is appropriate in its context.

Reasons

Compliance with GPDO

5. The appeal proposal seeks to demolish an existing office building and replace it with a 4 storey building containing 20 residential units. Paragraph ZA1(j) (i) of the GPDO sets out that development is not permitted by Class ZA if the height of the new building would at any point exceed the lower of (i) 7 metres above the height of old building; or (ii) 18 metres, above ground level.
6. The reference to 'at any point' in paragraph ZA1(j) (i) of the GPDO refers specifically to the new building, whereas the same is not applied to the old building. Moreover, the GPDO specifically excludes 'any part of a building' within the interpretation of 'building' in the case of Class ZA of Part 20 of the Schedule. As such, there is nothing before me to suggest that the height of the old building should not be taken to be the highest part of the building.
7. The new building would be 1.3m higher than the height of the old building and would therefore fall within the limitations set out in ZA1(j) (i).
8. Paragraph ZA1(k) sets out that development is not permitted if the new building has more than $X + 2$ storeys, where "X" is the number of storeys in the old building.
9. The old building is part 2 storey and part single storey, the proposed building would have 4 storeys. There is no substantive evidence to suggest that, for the purposes of Class ZA the number of storeys in the building should be taken to be the lower of the two parts. The new building would therefore not have more than 2 storeys than the old building and in that regard would satisfy this criterion.
10. Therefore, based on the evidence before me, I conclude that the proposal would comply with the provisions of Schedule 2, Part 20, Class ZA, paragraphs ZA.1.j(i) and k of the GPDO.

External appearance

11. Prior approval under Part 20, Class ZA of the GPDO was granted at the site by the Council on 31 May 2023 for the erection of a building comprising 15 dwellings with associated access, parking, hard standing and landscaping following the demolition of the existing building. The appeal scheme is of a similar design, and differs primarily in terms of height, including an additional storey to create a fourth floor within the building.
12. The appeal site occupies an elevated position on the edge of Ascot Business Park, adjacent to the railway line which runs along the boundary of the park. Whilst there is 2 storey residential development beyond it, development within the business park comprises a range of commercial buildings of various sizes and designs, including lower profile buildings as well as buildings of a more significant scale and greater height.
13. The proposed development would be taller compared to the existing building, particularly in relation to the single storey elements. Nevertheless, despite the increase in the overall height, scale and mass when compared to the existing

building, the proposed building would not be at odds with the others on the business park. Moreover, whilst its position on higher ground would increase the visual prominence of the building, when viewed within the context of the surrounding nearby buildings, it would not be an unduly dominating or incongruous feature. Consequently, the proposed building would be commensurate with the surrounding area and would complement the prevailing height and form of neighbouring units.

14. For the foregoing reasons I conclude that the external appearance of the building would not harm the character and appearance of the local area.

Conditions

15. Development is permitted under Class ZA, subject to conditions ZA.2. (5) and (6) that the development must be completed within a period of 3 years starting with the date of this decision and that prior to commencement the developer must provide the local planning authority a report for the construction of the development, the proposed use of materials and plans for the disposal and recycling of waste generated by the development. In relation to Part 20, Paragraph B (18) allows for the imposition of additional conditions reasonably related to the subject matter of the prior approval.
16. I have considered the Council's suggested conditions in light of this, and with regard to the advice set out in the Framework. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance. I have not included conditions that would replicate the requirements of the GPDO as they would not pass the test of necessity, this includes the timeframe for the completion of the development, the requirement for further details of materials and details of construction management.
17. Conditions to secure details of a Car Parking Management Plan and cycle storage provision are necessary to positively influence the scheme's transport and highways impact. A condition is necessary to secure details of refuse storage, in the interests of the amenity of the new building and of neighbouring premises. Also, conditions relating to contamination risks, noise attenuation for the benefit of future occupiers and the implementation of the landscaping scheme are necessary and relevant to the prior approval matters set out in paragraph ZA.2 (b), (h) and (l).
18. It has not been shown that a condition requiring approval under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 is relevant to the prior approval matters. As such I have not imposed this condition.

Conclusion

19. For the reasons given above the appeal is allowed and prior approval is granted.

E Worley

INSPECTOR

Schedule of Conditions

- 1) Prior to the first occupation of the development hereby approved a Parking Management Plan, to include details of how the parking spaces are to be managed for residents and their visitors, has been submitted to and approved in writing by the Local Planning Authority. The approved Parking Management Plan shall be fully implemented prior to the first occupation of the development and shall be adhered to in perpetuity thereafter.
- 2) Prior to the first occupation of the development hereby approved covered and secure cycle parking facilities for 20 bicycles shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities shall be kept available for the parking of cycles in association with the development and shall be permanently retained thereafter.
- 3) Prior to the first occupation of the development hereby approved details of arrangements for storage of refuse, including food waste, and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully completed before any part of the development hereby approved is first occupied and shall be permanently retained thereafter.
- 4) The soft landscaping of the site shall be carried out and maintained in accordance with the Landscape Plan and Landscape, Specification Management & Maintenance Plan dated 15 February 2023. All planting, seeding, or turfing therein shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall commence until: (1) a detailed scheme for the investigation and recording of contamination and remediation objectives has been submitted to and approved in writing by the Local Planning Authority; (2) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (a Remediation Method Statement) have been submitted to and approved in writing by the local planning authority; (3) the works specified in the Remediation Method Statement have been completed and a Verification Report submitted to and approved in writing by the local planning authority in accordance with the approved scheme; (4) if during remediation works, any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing by the Local Planning Authority; and (5) a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation has been submitted to and approved in writing by the Local Planning Authority.
- 6) No development above slab level shall take place until a scheme for protecting the future occupiers of the development from noise from the railway and commercial uses has been submitted to and approved in writing by the Local

Planning Authority. All works which form part of the scheme shall be completed before any part of the development is occupied and shall be permanently retained thereafter.

*******end of conditions*******