



Appeal Decision

Site visit made on 26 January 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2024

Appeal Ref: APP/H5390/W/23/3325378

Unit 14 Talina Centre, 23A Bagley's Lane, London SW6 2BW

- 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 AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Kim Hawkins of Framechoice Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2022/03365/PAC56, dated 8 November 2022, was refused by notice dated 11 January 2023.
 - The development proposed is the erection of two stories on existing two storey house to accommodate 2 x 1 bedroom flats together with new internal staircase serving the flats, new entrances, refuse and cycle stores.
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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 AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the erection of two stories on existing two storey house to accommodate 2 x 1 bedroom flats together with new internal staircase serving the flats, new entrances, refuse and cycle stores, at Unit 14 Talina Centre, 23A Bagley's Lane, London, SW6 2BW, in accordance with the terms of the application, Ref 2022/03365/PAC56, dated 8 November 2022, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 20, Class AC. The approval is subject to conditions set out Paragraph AC.2.(3) of Schedule 2, Part 20, Class AC of the GPDO including that development must be completed within a period of 3 years from the date of this decision, and subject to the additional conditions in the Schedule at the end of this decision.

Preliminary Matters

2. The order of the site address differs slightly between the application form and decision notice/appeal form, and for most clarity I have used the latter.
3. The appellant has confirmed that the application form provides the correct description of the development in referring to 2 x 1 bedroom flats, which I have therefore used in the description above. The decision notice/appeal form description and also within the officer report, erroneously refer to the proposal being for 1 x 1 and 1 x 2 bedroom flats. The officer report also identifies that both new flats would have a balcony, but only one would be provided.
4. Schedule 2, Part 20, Paragraph B.(3) of the GPDO states that the Local Planning Authority may refuse a prior approval application where in its opinion the proposed development does not comply with, or the developer has

provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval, and my determination is made on the same basis.

5. The National Planning Policy Framework ('the Framework') was revised in December 2023. Insofar as it is relevant, the content of the Framework has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties in this regard.

Main Issues

6. Part 20 Class AC.(1) and (2) of the GPDO permit development consisting of the construction of new dwellinghouses immediately above the topmost storey on a terrace building in residential use, subject to a number of criteria. Part AC.1. sets the circumstances when development would not be permitted, and where development is permitted under Part AC.1, this is subject to the conditions set out in Part AC.2. Part AC.2.(1) requires that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether its prior approval will be required for certain matters.
7. The main issue is whether the proposed dwellings would comply with the permitted development requirements set out at Part 20 Class AC of the GPDO, with specific regard to:
 - part AC.(1) as to whether the site is immediately above the topmost storey on a terrace building in use as a single dwellinghouse;
 - part AC.1.(g) as to whether the height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part;
 - part AC.2.(1)(a) regarding the transport and highways impacts of the development; and
 - part AC.2.(1)(e) regarding the external appearance of the building.

Reasons

Terrace Building in Use as a Single Dwellinghouse

8. The site comprises a building within a wider 2 storey block. It forms part of the Talina Centre, a 1980s development of primarily commercial and light industrial units in several blocks. An industrial site lies adjacent, within a wider residential area. The appeal building comprises a 2 storey dwelling converted from the original commercial unit¹, and the proposal seeks prior approval for a 2 storey upwards extension to create 2 additional flats.
9. The GPDO Part AC.(1) relates to works being above the topmost storey on a terrace building in use as a single dwellinghouse. The Council suggests that 'a terrace building' denotes the combined terrace in entirety, and as the remainder of the terrace is in commercial use and not dwellings, the proposal does not meet AC.(1). However, I find a subsequent distinction within Part

¹ 2016/03712/PD56

AC.1.(g), which refers to the height of the highest part of the roof of the extended building exceeding that 'of every other building in the row of terrace buildings of which it forms part'. Thus, 'a terrace building' must be a single building within a wider terrace of buildings, and as such Part AC.(1) does not explicitly require all the buildings within that terrace to be in use as dwellings.

10. The proposal would therefore comply with the GPDO class AC.(1), as the site is immediately above the topmost storey on a terrace building in use as a single dwellinghouse.

Roof Height

11. The GPDO class AC.1.(g) requires for the height of the highest part of the roof of the extended building to not exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part. Unit 14 is part of a conjoined group of buildings comprising Units 8, 9, 10, 13 and 14. Unit 8 has a slightly lower roof height than the others.
12. In dispute is whether Unit 8 comprises part of the same row of terrace buildings. In taking the appellant's interpretation, the row only comprises the appeal unit and Unit 13 with its adjacent frontage. The GPDO Part 20, Paragraph C.(1) defines a 'row', in relation to a row of terrace buildings, and confirms that a row may comprise only 2 terrace buildings. It identifies such as where each building shares a party wall with, or has a main wall adjoining the main wall of, the other building in the row.
13. In taking the Council's interpretation, the GPDO would need to refer to rear walls, or to main walls or party walls in relation to buildings behind the subject building. However, it does not do so, only referring to buildings being to one or either side. I therefore find that the row of terrace buildings of which the appeal building forms part, is only itself and Unit 13.
14. The proposal would therefore comply with the GPDO class AC.1.(g), as the height of the highest part of the roof of the extended building would not exceed by more than 3.5 metres the height of the highest part of the roof of Unit 13, being the other building in the row of terrace buildings of which it forms part.

Transport Impacts

15. The GPDO Class AC.2.(a) identifies that the developer must apply for prior approval as to the transport and highways impacts of the development. All such relevant impacts may therefore be considered, not only highway safety. The site has a Public Transport Accessibility Level of 3, and the proposal would provide internal cycle parking, and no car parking.
16. I have taken into account the LP Policy T4 and the Key Principle TR3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (SPD) (2018), which are material in this case. This is because they collectively require car parking permit free measures on all new developments. Additionally, the London Plan (2021) Policy T6 specifies that car-free development should be the starting point for all development proposals in places that are well connected by public transport. In order to ensure that the development would be car free, the Council requires the new dwellings' occupiers (except for Blue Badge Holders) to be prohibited from obtaining a parking permit.

17. Although the Council has provided no specific evidence that the surrounding streets suffer from parking stress, or that additional cars would result in increased congestion, my visit identified that the nearest streets only comprise paid parking. This is an indication of parking stress, and also implies that any nearby areas which do provide free parking would be under significant pressure. I therefore find it appropriate and necessary to restrict the occupiers from obtaining new permits.
18. The Council requires a Unilateral Undertaking to be provided in this regard. One has been submitted, but is in draft form and so I have not taken it into account. The appellant suggests instead for a similar condition to be imposed as for the prior approval for the existing Unit 14. This required the Head of Development Management to be notified of the full postal address of the new residential unit prior to its occupation. This would enable the Council to update its records to ensure the restriction of parking permits for its new occupiers.
19. I find that a suitable condition of similar wording could be imposed which would have the necessary binding restriction. In imposing this condition, the proposal would therefore comply with the GPDO class AC.2.(1)(a) regarding the transport and highways impacts of the development.

External Appearance

20. Class AC.2.1.(e) requires prior approval for the external appearance of the building. Criterion (i) identifies that this includes the design and architectural features of the principal elevation and any side elevation that fronts a highway. This therefore does not specifically exclude consideration of its other elevations, or any other relevant matter relating to appearance.
21. Part 20 Paragraph B.(15)(b) identifies that regard is to be had to the Framework, so far as is relevant to the subject matter of the prior approval, as if the application were a planning application. The Framework section 12 aims for development to achieve well-designed and beautiful places, with paragraph 135 identifying that they should be visually attractive and sympathetic to local character including the surrounding built environment, while not preventing appropriate innovation.
22. The building forms part of a highly uniform group of several 1980s 2 storey industrial blocks, with large glazed windows and a relatively simple industrial aesthetic. This steel gable roof form does not delineate individual property boundaries, except for where there are slightly lower units at one end of some blocks.
23. The appeal proposal's front elevation would continue the existing brick piers rising through the second storey, with matching colour coated aluminium curtain walling and inset balcony. The roof would replicate the mono-pitch and materials of that existing. The rear elevation would comprise 1 new window in its existing part, and 1 in the new 3rd storey level, with the remainder blank, as well as the new side elevations.
24. As such, although the building would rise above the other buildings within the block, it would be predominantly sympathetic to its overall aesthetic and the Centre as a whole. The side flanks and rear façade would insert a new design feature, but the impression as a whole would not be untoward within its industrial setting and the overall cohesion of the design. It is also not within

general public view, and would only have limited visibility from within the Centre, and little prominence in views from surrounding properties due to its context within the wider industrial area. The proposal would therefore comply with the GPDO class AC.2.(1)(e) for the external appearance of the building.

Other Matters

25. I have also assessed the other undisputed matters required in order for the proposal to be classed as permitted development and to benefit from prior approval under class AC. The development would comply with these criteria. I therefore find that it has been demonstrated that the proposed upwards extension of 2 storeys to create 2 flats, would satisfy the requirements of Schedule 2, Part 20, Class AC of the GPDO.

Conditions

26. Part AC.2. of the GPDO sets the standard conditions for development under Class AC. The GPDO Paragraph AC.2.(18) allows granting of prior approval subject to further conditions reasonably related to the subject matter of the prior approval. I have imposed a condition to specify the approved plans, to provide clarity.
27. The Council suggested conditions to require details of cycle parking, refuse storage, contamination, and noise attenuation. These are related to the matters for which prior approval is required, and so I have imposed them subject to slight amendments to reflect paragraph 56 of the Framework and the Planning Practice Guidance. This includes reducing the suggested extent of required details relating to contamination, in recognition that the existing building provides full site coverage, the unit below the proposed development has already been converted to residential use, and that the scheme is an upwards extension with no external groundworks.
28. I have restricted the dwellings' new occupiers from gaining parking permits, to ensure the development remains car free as discussed above. I have slightly modified the appellant's suggested condition, to include reference that the dwellings shall not be occupied until the relevant Traffic Regulation Order (TRO) has been amended by removing the dwellings from the list of dwellings for which Residents' Parking Permits can be issued. This is because if there were no reference to the TRO, the condition would only infer such an action for the Council, and so would not itself ensure that it would be car free. The appellant has confirmed acceptance of the conditions.

Conclusion

29. For the reasons given, I conclude that the appeal is allowed and prior approval is granted subject to conditions.

L N Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan
 - Proposed Ground + First Floor Plans
 - Proposed Second + Third Floor Plans
 - Proposed Roof Plan
 - Proposed Elevations 1
 - Proposed Elevations 2
- 2) The development hereby permitted shall not be occupied until details of the cycle storage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details, and the cycle storage shall be retained thereafter for the life of the development.
- 3) The development hereby permitted shall not be occupied until details of the refuse and recycling storage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details, and the refuse and recycling storage shall be retained thereafter for the life of the development.
- 4) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures, and a verification report for all the remediation works shall be submitted to and approved in writing by the Local Planning Authority.
- 5) The development hereby permitted shall not be occupied until details of a Noise Assessment have been submitted to and approved in writing by the Local Planning Authority. This Assessment shall include a demonstration of noise levels external to the development which detail the sound insulation of its building envelope, and of acoustically attenuated mechanical ventilation as necessary, to achieve internal room noise standards in accordance with the criteria of BS8233:2014, and an enhanced sound insulation value $D_{nT,w}$ and $L'_{nT,w}$ of at least 5dB above the Building Regulations value for the floor/ceiling/wall structures separating different types of rooms/uses in adjoining units including existing units. The development hereby permitted shall not be occupied until it has been carried out in accordance with these details, which shall be retained thereafter for the life of the development.
- 6) The dwellings hereby permitted shall not be occupied until the Local Planning Authority has been informed in writing of the properties' full postal addresses, and the relevant Traffic Regulation Order has been amended by removing the dwellings from the list of dwellings for which Residents' Parking Permits can be issued.

END OF SCHEDULE