



Appeal Decision

Site visit made on 26 June 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/B5480/W/24/3337303

Neale Court, Upminster Road, Havering, Hornchurch RM11 3XP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by RM10 Airspace Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref is J0035.23.
 - The development proposed is construction of one additional storey above the existing building to provide 6no. residential flats (Class C3), parking and associated storage.
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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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to provide construction of one additional storey above the existing building to provide 6no. residential flats (Class C3), parking and associated storage at Neale Court, Upminster Road, Havering, Hornchurch RM11 3XP in accordance with the application J0035.23, subject to the additional conditions set out in the attached schedule.

Preliminary Matters

2. The address noted in the appeal form is a variation to the address listed in the application form. Both addresses are similar, however I have used the address listed in the application form as this is the best description of the location of the appeal site.
3. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Development is permitted under Class A where it consists of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, as well as certain associated works.
4. For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions establish a requirement for developers to apply to the Local Planning Authority for a determination as to whether prior approval will be required in relation to several prior approval matters. In determining such an application, paragraph B(15) requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework (the Framework), so far as relevant

to the subject matter of the prior approval, as if the application were a planning application.

5. In refusing the application, the Council have cited the external appearance of the building as their reason for refusal. I have therefore assessed the appeal on this basis. However, I have taken into account all matters raised with regard to the effect of the proposal on the matters covered in A.2 of Part 20, Class A of the GPDO.

Main Issue

6. The main issue is the effect of the proposal on the external appearance of the building.

Reasons

7. The Framework offers support for the upward extensions of buildings, providing that the extension would be well designed, amongst other things. Neale Court is a three-storey flat roof apartment block which fronts onto Upminster Road, but is set back from the highway by a large, grassed area. Sited on this grassed area is a line of mature trees which are protected by a Tree Preservation Order (TPO). These trees, combined with the setback of the building, restrict the overall view of the width and height of Neale Court. The appeal building utilises a light-coloured brick and white cladding across its existing exterior. Windows across the multiple faces of the building vary in their style.
8. The development would result in a four-storey building, finished in cladding with a setback from the public highway. These materials would not be a direct match to the existing finishes of the existing building. In addition, the windows would not follow the fenestration details found on the existing three storey building. However, despite the absence of a match up between the materials and fenestration elements, this would not be discordant in the context of the mixture of design and external finishes in the area. The contrast would highlight a positive change from the original building to the new additional upper floor extension. The alignment of glazing with fenestration to the floors below would also help to tie the fourth storey visually to the lower levels of the building.
9. The appeal building would be taller than the neighbouring buildings when viewed along Upminster Road. Owing to its flat roof, it is of a much different design and form in comparison to its neighbours. Therefore, the contrast in heights between the host building and its neighbours would not be harmful in this instance as it would be read as a building of its own individuality.
10. The trees located to the front of the building would also contribute to the concealment of the extension. These trees benefit from a TPO and are therefore unlikely to be removed. Even if they were to be removed, or not in leaf during winter months, the visibility of the building itself would not be harmful to the street scene. This is due to the large set back from the highway and the set back of the extension from the front elevation of the building. As such, the proposal would not appear as a visually bulky form of development within the street scene.
11. Collectively, taking all of the reasons given above into account, the development would assimilate appropriately with the host building and its

environment. The proposal would not appear incongruous. I find that the proposal would accord with the Framework's objective of achieving well designed places. The Framework seeks for development to be visually attractive and considerate to its local area, amongst other things. I therefore conclude that the external appearance of the building would be appropriate.

Other Matters

12. In my assessment of this appeal, I have taken into account all matters raised with regard to the effect of the proposal on the matters covered in A.2 of Part 20, Class A of the GPDO. These matters include the effect of the proposal on transport and highways, air traffic and defence assets, contamination risks, flood risks, the provision of natural light in the habitable rooms of the proposal, the effect upon the amenity of neighbouring premises, amongst other things which are included in A.2 of Part 20, Class A of the GPDO. Interested parties have also commented on these matters.
13. The Council comments that there are no concerns in relation to the effect of the proposal on transport and highways, air traffic and defence assets, contamination risks and flood risks, among other considerations. The Council did provide a commentary on if the proposal would provide adequate light to the new habitable rooms which would be created and the potential effect upon the amenity of neighbouring premises. However, these matters were considered as acceptable.
14. In assessment of these matters, in consideration of transport and highways, I did note that the access to the rear car park is serviced by a single-track access point. As such, if two cars were to enter and exit at the same time, manoeuvrability would be difficult. However, due to the overall small number of apartments, it is considered that these instances would be limited. I therefore see no reason to take a different view to the Council who have not objected to the proposal on any other grounds other than the external appearance of the building.
15. Several comments were raised by interested parties. These matters raise concerns such as the lack of parking for these additional flats, removal of visitor parking spaces, pressure on service utilities infrastructure, increased noise, and the overall size of each proposed flat, amongst other matters. As noted above, many of these matters have been considered by the Council and found acceptable within the provisions of the GPDO. I find no reason to disagree as noted in my consideration of these matters above. Matters relating to the effects on local services and utilities fall outside of the scope of the GPDO assessment of this appeal.

Conditions

16. The Council have supplied a specific list of conditions for my consideration in the event that the appeal was allowed. The conditions set out below are in addition to those imposed in the GPDO. Several conditions have been amended to ensure that they meet the tests set out in paragraph 56 of the Framework. I have consulted the parties on these conditions and taken their responses into consideration and received the agreement of the appellant to the pre-commencement conditions [2, 3 and 4].

17. A condition specifying the approved plans [1] is justified in the interest of certainty. A condition requiring the submission of the material details [2] is required to ensure that the proposal would respect the character and appearance of the area.
18. Several conditions are required to protect the living conditions of occupants of neighbouring properties. Firstly, the submission and implementation of an assessment of noise is required to assess the effect of noise from Upminster Road upon residents [3]. Secondly, a Construction Method Statement is required to reduce disturbance during the construction of the proposal [4]. This is a requirement of condition A.2 (3) of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. A condition requiring elements of glazing within the proposal to be obscurely glazed is required to protect the living conditions of neighbouring occupiers [9]. Finally, a condition requiring the submission of a refuse and recycling scheme [7] must be submitted to and approved by the Council. This is necessary in the interests of protecting the living conditions of the existing and future occupiers of Neale Court.
19. A condition requiring car parking spaces [5] to be provided prior to occupation of the proposal is necessary to ensure that this is available to occupiers. A further condition which requires the provision of infrastructure for active charging facilities for Ultra-low emission vehicles [6] has been amended significantly from the suggested condition by the Council. In the condition suggestion, the Council requested that all residential parking spaces shall include passive infrastructure provision. The plans before me demonstrate two spaces which would be provided with active charging facilities. There is limited information as to the need for all spaces to provide passive infrastructure provision, or what this would entail. As such, this aspect of the condition is not necessary and as such has been amended. A condition has been imposed which requires the submission of cycle storage details [8]. These details are necessary in ensuring that adequate provision of storage space for users is provided.
20. The Council did suggest a condition which requires the submission of a scheme for the protection of preserved trees on the site. This has not been imposed. The effect upon trees is not a prior approval consideration. These trees also benefit from a TPO and therefore are protected by separate legislation. As such, this condition is not necessary.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers:
 - Proposed Block Plan 23/215 001 Rev 00
 - Proposed Site Plan 23/215 003 Rev 00
 - Proposed Plans – Proposed Third Floor Plan 23/215 201 Rev 00
 - Proposed Plans – Proposed Roof Plan 23/215 201 Rev 00
 - Proposed Elevations 23/215 221 Rev 00
 - Proposed Elevations 23/215 222 Rev 00
 - Existing and Proposed Section 23/215 300 Rev 00
- 2) Notwithstanding the details on the approved plans, Planning Statement dated October 2023 Ref: P1116 and Design & Access Document (Design Doc 23/234-6001-R00 October 2023), no development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) Prior to the commencement of any development, an assessment shall be undertaken of the impact of road noise emanating from Upminster Road upon the development. Reference should be made to the “good” standard to be found in the World Health Organisation Guidelines for Community Noise 1999 and BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. Reference should also be made to the Acoustics Ventilation & Overheating Residential Design Guide 2020. Following this, a scheme detailing measures, which are to protect future occupants of the proposed flats from transport noise shall be submitted to and approved in writing by the Local Planning Authority. It shall be implemented and validated prior to occupation.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide information for the parking of vehicles of site operatives and visitors, loading and unloading of plant and material, the hours of operation including the delivery of materials, the erection of security hoarding including decorative displays, measures to control the emission of dust and dirt during construction and a scheme for the recycling and disposal of waste resulting from construction works. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing numbers 23/215 001 Rev 00 (Proposed Block Plan) and 23/215 003 Rev 00 (Proposed Site Plan). Thereafter, those spaces shall be retained permanently for the residents of the development and shall not be used for any other purpose.
- 6) The development hereby permitted shall not be occupied until a minimum of two parking spaces are provided with infrastructure for active charging

facilities for Ultra-low emission vehicles. These spaces shall be permanently retained thereafter.

- 7) No building shall be occupied or the use commenced until refuse and recycling facilities are provided in accordance with details which shall be submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be permanently retained thereafter.
- 8) Notwithstanding the details on the submitted plans, the development shall not be occupied until the details of cycle storage have been submitted and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with those details and permanently retained thereafter.
- 9) The development hereby permitted shall not be occupied until the windows on the west and east side elevations and north rear elevation of the stairwells as shown on Drawing Number 201, Revision 00, Drawing Number 221, Revision 00 and Drawing Number 222, Revision 00 have been permanently fitted with obscured glazing. This obscured glazing shall not be less than level 4 on the standard scale of obscurity. This shall be retained thereafter.