



Appeal Decisions

Site visits made on 24 September 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal A Ref: APP/L5810/W/24/3340349

1-12 Duke of Cambridge Close, Richmond Upon Thames, Whitton TW2 7DG

- 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 (as amended).
 - The appeal is made by Annington Property Limited against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 23/3399/GPH01.
 - The development proposed is a two-storey upward extension creating 8 flats.
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Appeal B Ref: APP/L5810/W/24/3340350

13 Duke of Cambridge Close, Whitton, Twickenham TW2 7DG

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Decisions

Appeal A

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) for a two-storey upward extension creating 8 flats at 1-12 Duke of Cambridge Close, Richmond Upon Thames, Whitton TW2 7DG in accordance with the application 23/3399/GPH01 and the details submitted with it, and subject to the additional conditions set out in the attached Schedule of Conditions (Appeal A).

Appeal B

2. 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) for a two-storey upward extension creating 8 flats at 13-24 Duke of Cambridge Close, Whitton, Twickenham TW2 7DG in accordance with the application 23/3400/GPH01 and the details submitted with it, and subject to the additional conditions set out in the attached Schedule of Conditions (Appeal B).

Preliminary Matters

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) was amended in August 2020¹ to introduce Part 20, Class A to Schedule 2 of the Order. The purpose of this Class is to grant permission for new dwellinghouses on blocks of flats in the form of up to two additional storeys of new dwellinghouses immediately above the existing top-most residential storey of a purpose-built detached block of flats. Permission is also granted by this Class² for any or all engineering operations reasonably necessary, works for the replacement of or installation of additional plant on the building's roof, construction of appropriate and safe access and egress and works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.
4. Paragraph A.1(a) to (o) sets out a range of circumstances in which development is not permitted under Class A, whilst paragraph A.2(1) to (6) sets out conditions and procedures applicable to development permitted under Class A. Paragraph A.2(1)(a) to (j) also sets out the range of matters for which an application for prior approval must be made prior to the commencement of the development proposed. Of these, of particular relevance to the appeals before me is the content of paragraph A.2(1)(e) which refers to consideration of the external appearance of the building. The *CAB Housing Ltd* judgement³ confirmed that the control of external appearance of the building is not limited to the effect on the subject property itself, but also includes the effect on neighbouring properties and the locality. Both parties have addressed the refusal reason for each application in this manner, as will I in my decision.
5. Paragraph B(15) requires that any representations made as a result of consultation be taken into account, and that regard be had 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. I have determined the appeal on this basis.
6. Although the appeal site addresses differ slightly between the appeals, I am satisfied that the sites are sufficiently well-related to each other locationally, the proposals are broadly the same in terms of their scale, nature and extent and the refusal reasons sufficiently similar as to consider the main issues below as one. For clarity however I have set out my formal decisions in respect of each appeal separately, using the details supplied on the initial application forms which, I note, differ slightly between the applications.

Main Issue

7. Having regard to the above, the main issue in respect of both appeals is the effect of the proposed development on the external appearance of the buildings.

¹ Amended by the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020/632

² Paragraph A(a) to (d)

³ *CAB Housing, Beis Noeh Ltd & Mati Rotenberg v SSLUHC* [2002] EWHC208 (Admin)

Reasons

8. The appeal buildings – numbers 1 to 12 and 13 to 24 – were built in the early 1950s as Ministry of Defence housing but have, I am led to believe, stood empty for the last few years. The buildings, both brick-built under tiled pitched roofs, are three storeys in height, with a steeply pitched roof with hipped ends within which tall chimneys are prominently located.
9. Each of the blocks are largely symmetrical, with a projecting three storey stairwell and entrance bay centrally positioned on each side of the front elevation, with repetition of balconies at first and second floors and fenestration across the whole of both front and rear elevations. The windows and width of the façade give the buildings a strong horizontal emphasis which is counterbalanced and enlivened by the verticality of the entrance and stairwell bays. The roofs, because of their steep pitch, are substantial but are otherwise simple and, other than the characterfully tall chimneys, uncluttered.
10. The buildings stand in echelon along Duke of Cambridge Close, slightly apart from surrounding residential areas and other buildings and set within large areas of mown lawned grass around them and set back from Whitton Road. A belt of trees along the Whitton Road frontage of the neighbouring open space on one side, and a similar belt of trees along Spray Lane to the other, soften and restrict longer views towards the buildings' front and rear facades. Trees within the grassed areas of Duke of Cambridge Close provide further sylvan context to the buildings' setting.
11. The two additional storeys atop the building would replace the existing pitched roof and would instead be flat roofed. There would be very little difference in the overall height of the highest part of the building, albeit that the bulk and massing of the extended element would be greater than that of the receding nature of the existing pitched roofs, notwithstanding their steep pitch.
12. In the context of the buildings' position within a landscaped setting with a mix of extensive grassed areas and large trees set a substantial distance back from Warren Road, the buildings are a recessive feature within the wider townscape. Whilst the angular form of the two storey additions would be at odds with the hipped roof suburban character of residential areas to the south of Warren Road, and would amount to a significant change from that of the existing buildings' roofscape, the buildings are sufficiently set apart from others in the locality to be able to sustain the degree of change the appeal schemes propose. They would therefore remain, albeit to a lesser extent than presently, a largely recessive feature within the wider townscape.
13. Although I accept that the extent to which the surrounding tree cover will screen and soften views will vary accordingly to season, even without foliage the bare skeletal framework of the trees will nevertheless intercept longer views of the buildings. Nor are the buildings themselves seen directly in context with the mostly two-storey suburban residential developments on the opposite side of Warren Road.
14. The existing buildings already differ from the scale and form of those existing residential properties. They also already differ in the same terms from those of the adjacent Chase Bridge Primary School, the more distant grade II listed Kneller Hall and school and, clearly, from Twickenham rugby stadium. Whilst the appeal schemes would result in two larger buildings with added visual

scale and massing, particularly at upper floor levels when compared with the existing buildings' form and scale, I am satisfied that they would remain largely recessive features within the surrounding area and that they would not be harmfully at odds with the varied scale, character or appearance of the surrounding area.

15. The area immediately around the appeal building is laid to maintained open grassland, within which large and well-established trees are set. Trees also follow the boundary fence between Duke of Cambridge Close and the open spaces of the adjoining former playing fields associated with Kneller Hall. By virtue of the buildings' positioning within the site, neither are directly adjacent to the open spaces of the Metropolitan Open Land that wraps around the western, northern and eastern sides of the wider Duke of Cambridge Close development. Indeed, the areas of maintained grassland around the buildings would be retained and I am not persuaded that the additional massing at upper floor levels, together with the limited overall increase in height, would erode the openness that characterises these areas, particular that to the west of Duke of Cambridge Close.
16. I find the appellant's Heritage Statement to be compelling in its description of the significance of the Kneller Hall listed building, other listed structures within its curtilage and the setting of the Kneller Hall. The appeal site is already developed with the three blocks of flats, of which two are subject to this appeal, and to housing behind. The proposal would not affect the space around the buildings, nor would it have an adverse effect upon the openness of the land surrounding Kneller Hall. The added massing at upper floor levels of both buildings would be noticeable, but would be sufficiently distant, with various items, features and vegetation impeding, restricting and softening views of, and between the appeal buildings and Kneller Hall and other listed structures around it and within its curtilage. Whilst the Council note the relationship between these, there has been no compelling justification set out to demonstrate what harm would arise to the setting of the listed building, and the significance to it of its setting.
17. The assessment criteria for this type of application, as set out in the Order, is the effect of the proposed development on the external appearance of the building(s) in question. As explained in the preliminary matters, and as considered in detail above, this is also capable of extending to any effects upon the surrounding area. However, in relation to the effect of the proposals on the buildings themselves, the Council are complementary of the design of the upward extensions which are described in the Council's officer reports as being considered to be well-designed and, through the use of complementary materials, create a sense of belonging between existing buildings and extended elements.
18. Whilst the officer reports also expressed reservations regarding 'inappropriate massing', neither the officer reports nor the Council's appeal statement explain this exclusion in the context of the effect of the extensions' massing on the appearance of the buildings. Rather, the effects of the extensions are described in terms of their effect on the buildings in the context of the surrounding area, not on the buildings themselves.
19. The buildings, as a group of three, possess some group value, which would be eroded as the proposals relate only to two of the three. However, the layout of

the buildings within the site is such that, taken together with the intervening vegetation, the building not subject to either appeal is the least visible from Warren Road and the furthest of the three back into the site. Any harmful effect in terms of group value and not being subject to the current appeal schemes would be mitigated by its position and the more limited extent of any wider views.

Other Matters

20. Although the Council did not refuse the application for prior approval on grounds relating to the transport and highways impacts of the development, conditions have been suggested to restrict future residents' access to resident car parking permits. Duke of Cambridge Close is a gated⁴ private access road, whilst garage units are located to the rear of the appeal buildings. The access road could accommodate the likely level of parking arising from the two schemes but, given the relatively narrow nature of the access road, could in certain circumstances impede emergency service access.
21. The site does not lie within a Controlled Parking Zone (CPZ), although is directly adjacent to one, whilst also lying close to the Twickenham stadium. However, I have no evidence before me regarding the status of, or eligibility to apply for, such permits for occupiers of the existing flats within the neighbouring CPZ. I am not therefore persuaded that the appeal schemes would give rise to harmful or unacceptable impacts upon transport or highways interests or that sufficient justification has been put forward that occupiers of the additional dwellings should be thus restricted.
22. Of the other matters set out at paragraph A.2. (a) to (j) for which prior approval must be sought, it is noted that the Council have raised no objection other than in relation to the external appearance of the building (A.2.(e)). Nor have I been presented with any further compelling evidence to lead me to conclude otherwise. The Council have not disputed or challenged the conclusions of the appellant's protected species survey⁵, and I have not been presented with any further compelling evidence to lead me to disagree.

Conditions

23. Prior approvals permitted under Class A of Part 20 of the Order are subject to a condition (paragraph A.2.(2)) that the development must be completed within a period of 3 years starting with the date that prior approval is granted. Paragraph B.(17) of Part 20 requires that development be carried out in accordance with the details provided to the local planning authority and, thus, set out in these appeals. Further conditions regarding the management of the construction, notification of the date of completion and that the dwellinghouses created must remain in use as dwellinghouses are set out at paragraphs A.2.(3) to (A.2(6) inclusive. I do not intend to repeat these conditions here as they are set out in full in the Order.
24. However, Paragraph B.(18) states that prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested a range of conditions beyond those set out at paragraph B.(17) which I have carefully considered in

⁴ By way of a barrier arm

⁵ 'Protected Species Survey of Flats at Duke of Cambridge Close, Twickenham, Greater London' – Philip Irving (March 2023)

the context of paragraph B.(18), the Framework and Planning Practice Guidance.

25. Thus, plans conditions are necessary in the interests of certainty and to ensure an appropriate external appearance for the buildings. Although the appellant's Design Statement provides a description of the design philosophy and approach to the use of materials, it stops short of specifying actual materials. Nor do the plans indicate, in a manner other than coloured representation, details of the materials. Thus, materials conditions are necessary and reasonable in the case of both appeal schemes.
26. The provision of appropriate cycle, refuse and recycling storage are all necessary in the interests of the external appearance of the buildings and I concur with the Council's suggestions that such conditions should be imposed to both schemes. Similarly, conditions relating to the discharge of surface water given the differing nature of the roof construction and how they would be likely to intercept rainfall are necessary and reasonable in the interests of managing flood risk.
27. For the reasons set out previously in respect of transport and highways matters, I have not imposed conditions regarding eligibility to apply for car parking permits.

Conclusion

28. For the reasons given above I conclude that both appeal A and appeal B should be allowed.

G Robbie

INSPECTOR

Appeal A

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, where applicable:-

Planning Statement; Design Statement, Heritage Note; Transport Statement ref 22-0835; Daylight and Sunlight Report ref 3010; Flood Risk Assessment ref 839-FRA-01-A Rev A; 231201-000; SK-DCC-2310/15-01/101; SK-DCC-2310/15-01/103; SK-DCC-2310/15-01/301; SK-DCC-2310/55-01/201; SK-DCC-2310/55-01/202; SK-DCC-2310/55-01/203; SK-DCC-2310/55-01/204; SK-DCC-2310/55-01/802; SK-DCC-2310/55-01/803 - received 20/12/2023 and Heritage & Townscape Statement ref.: 1166 - received 11/01/2024.

- 2) The external surfaces of the building (including fenestration) shall not be constructed other than in materials, the details / samples of which shall have first been submitted to and approved in writing by the Local Planning Authority.
- 3) The building hereby approved shall not be occupied until arrangements for the storage and disposal of refuse / waste have been made in accordance with details to have first been submitted to and approved in writing by the Local Planning Authority.
- 4) No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.
- 5) No building / dwelling / part of the development shall be occupied until cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and finishes thereof.
- 6) No development other than demolition and enabling works (if applicable), shall take place until a scheme to dispose of surface water (and the timing for implementation) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall not be implemented other than in accordance with the approved scheme and thereafter retained as approved.

Appeal B

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, where applicable:-

Protected Species Survey; Planning Statement; Design Statement; Heritage Note ref 1166; Transport Statement ref 22-0835; Daylight and Sunlight Report ref 3010; Flood Risk Assessment ref 839-FRA-01-A Rev A; SK-DCC-2310/15-01/101; SK-DCC-2310/15-01/103; SK-DCC-2310/15-01/301; SK-DCC-2310/55-01/201; SK-DCC-2310/55-01/203; SK-DCC-2310/55-01/204; SK-DCC-2310/55-01/801; SK-DCC-2310/55-01/802; SK-DCC-2310/55-01/803 - received 20/12/2023; and Heritage & Townscape Statement ref.: 1166 - received 11/01/2024.

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****End of Schedule****