



Appeal Decisions

Site visit made on 9 October 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal A Ref: APP/G5180/W/24/3337320

Summerfield, 3 Freelands Road, Bromley, BR1 3AG

- 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 Mr M Crane (Height Airspace Ltd) against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/02774/NDFLAT.
 - The development proposed is the construction of one additional storey above the existing building to provide three no. residential flats (Class C3) with associated refuse and cycle parking.
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Appeal B Ref: APP/G5180/W/24/3341689

Summerfield, 3 Freelands Road, Bromley, BR1 3AG

- 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 Mr M Crane (Height Airspace Ltd) against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/24/00344/NDFLAT.
 - The development proposed is the construction of one additional storey above the existing building to provide three no. residential flats (Class C3) with associated refuse and cycle parking.
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Decision

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) ("the GPDO") for the construction of one additional storey above the existing building to provide three no. residential flats (Class C3) with associated refuse and cycle parking at Summerfield, 3 Freelands Road, Bromley, BR1 3AG in accordance with the application 23/02774/NDFLAT and the details submitted with it, and subject to the conditions set out in Appendix 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 the construction of one additional storey above the existing building to provide three no. residential flats (Class C3) with associated refuse and cycle parking at Summerfield, 3 Freelands Road, Bromley, BR1 3AG in accordance with the application 24/00344/NDFLAT and the details submitted with it, and subject to the conditions set out in Appendix B.

Application for costs

3. An application for costs was made in respect of Appeal A by Mr M Crane (Height Space Ltd) against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural Matters

4. Schedule 2, Part 20, Class A of the GPDO permits development consisting 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. While the principle of development is established by the provisions of the GPDO it is subject to limitations and is contingent upon the grant of prior approval for a specific proposal.
5. The Council was satisfied that the proposed development complied with the limitations set out in Paragraph A.1 and I agree. Among the conditions set out in paragraph A.2 is the requirement to seek prior approval of various matters including, of greatest relevance in this appeal, the external appearance of the building, and the impact on the amenity of the existing building and neighbouring premises including overlooking privacy and the loss of light.
6. Schedule 2, Part 20, Paragraph B.(15)(b) of the GPDO requires the prior approval application to be determined with regard to the *National Planning Policy Framework* (the Framework) but does not require regard to be had to the development plan. I have therefore had regard to the policies of the development plan to which the Council referred only insofar as they are material to the matters for which prior approval is sought.

Main Issues

7. The main issues in both appeals is whether or not prior approval should be granted having regard to:
 - The external appearance of the building; and
 - The impact on amenity of neighbouring premises in respect of outlook.

Reasons

External Appearance

8. Summerfields is a 4 storey, flat roof, purpose built block of flats containing 16 dwellings, located in a residential area. The proposal would see an additional storey added to the top of the building that would create 3 flats. The external appearance of the additional storey varies in each appeal and so I consider each separately below.

Appeal A

9. The proposed additional storey would be set in approximately 1m from all the existing elevations of the host building and would be approximately 2.4m in height. As such, it would be a subservient addition and its contemporary zinc-clad finish would clearly distinguish between the old and new parts of the building. In addition, the proposed fenestration would align with that on the lower floors in both position and size. Given this, I consider that the proposal would be a sympathetic and appropriate addition to the host property.
10. The surrounding residential area has a very diverse character. Properties vary in age, type, and design and include 2, 3 and 4 storey buildings, some of which have been sub-divided into flats. Materials and roof types are also varied. Whilst Nos 1 and 1A Frelands Road are 2 storey semi-detached houses, Nos 5 – 11 are 4 storey with a ridge height greater than the current building at No 3, and the properties facing No 3 are 3 and 4 storey buildings. On Widmore Road, there are a number of purpose built blocks of flats and other 4 storey buildings. Although these front Widmore Road rather than Frelands Road, they are clearly visible from Frelands Rd and so form part of the visual context and character of the area.
11. Given the height and mass of many of the buildings in the vicinity, the proposed additional storey, which would not be significantly taller than the adjacent 4 storey houses to the north, would not appear an incongruous addition to the existing street scene. Additionally, the lack of consistency in materials in the vicinity, means the zinc cladding would not make the development appear out of keeping with the character of the area.
12. Whilst the trees to the front of the appeal site and some of the adjacent properties, would partially screen the upwards extension from view in the summer, it would still be visible when travelling in either direction along Frelands Road. Nonetheless, the subservient and recessive design means it would not particularly draw the eye or be an overly dominant feature.
13. In the light of this, I consider that the external appearance of the building would be acceptable and would not result in harm within the context of Schedule 2, Part 20, Class A, Paragraph A.2(1)(e) of the GPDO.

Appeal B

14. The proposed additional storey would have a “mansard style” design. At its base it would be set in approximately 0.5m from the existing elevations and would add about 2.7m in height to the host property. Despite the slightly greater height, and the reduced set back, in comparison to Appeal A, the overall scale and mass of the proposal would be similar to the extension proposed in Appeal A and it would still be a subservient addition that would not be out of proportion with the host property. Moreover, its contemporary zinc-clad finish would clearly distinguish between the old and new parts of the building. Although differing in design, the proposed fenestration would still align with the position of the windows on the existing building. Given this, I consider that the proposal would be a sympathetic and appropriate addition to the host property.
15. As with appeal A, given the height and mass of many of the buildings in the vicinity, the proposed additional storey, which would not be significantly taller

than the adjacent 4 storey houses to the north, would not appear incongruous or out of keeping with the existing street scene. The design would feature dormer windows that project slightly from the roof plane, but these would not be excessively prominent features. Moreover, although the extension would be visible from the public realm, the design would still be subservient and recessive meaning it would not particularly draw the eye or be an overly dominant feature.

16. Whilst mansard roofs are not common in the immediate vicinity, they are found on one of the existing blocks of flats fronting Widmore Road, and to the rear of No 3 one of the blocks of flats has a very steeply sloping roof with rooflights that is not dissimilar to a mansard style roof. Given this, and the lack of consistency in the design of roofs and materials used in the area, the design of the roof and proposed zinc cladding would not appear out of character or result in a visually poor relationship with the surrounding area.
17. Consequently, I consider that the external appearance of the building would be acceptable and would not result in harm within the context of Schedule 2, Part 20, Class A, Paragraph A.2(1)(e) of the GPDO.

Living Conditions – Appeals A and B

18. The existing building is set back from the road by a modest sized garden. As a result, the separation distance maintained to the properties opposite, which also have front gardens, is generous. The flats at the rear are separated from the host property by the communal garden and a garage court. As the proposed additional storey in both appeals would be set in from the existing elevations, it would be slightly further away from the properties facing No 3 either at the front or the rear. At both the front and the rear, mature trees, which would be unaffected by the proposal, would filter views of the proposed upwards extension, even in the winter.
19. Given this, whilst the views from facing properties may change, the proposed development would not have an overbearing impact on, or unacceptably harm the outlook from any neighbouring property. Whilst not mentioned specifically in the reason for refusal, for the same reason, the proposal would not result in an adverse impact on the privacy of nearby occupiers.
20. The applications were accompanied by a Sunlight and Daylight report. This concluded that the appeal scheme would comply with the Building Research Establishment (BRE) Guidelines and would not have an adverse impact on the daylight and sunlight received by any surrounding property or their garden areas, or by the host property and the communal garden to its rear. Whilst the report was not updated to reflect the revised design, the consultant confirmed it would be unlikely to change the previous conclusions. Given the limited change in the scale and mass of the proposed extension in appeal B, this is a conclusion with which I agree.
21. Therefore, I consider that the proposal would not cause significant harm to the amenity of neighbouring premises within the context of Schedule 2, Part 20 Class A paragraph A.2(1)(g) of the GPDO.

Other Matters

22. Whilst consultation with residents before an application is submitted is encouraged, there is no requirement for this to be carried out. Details of the

proposed refuse and bicycle parking can be controlled by a condition, and I am satisfied that the space required for these additional facilities would not significantly reduce the size of the communal garden area. Given the size of the proposal, any increase in light pollution or in noise and disturbance from additional comings and goings would be minimal, and any increased use of local services and infrastructure would be negligible.

23. To minimise any impacts of the construction period a condition requires the submission of, and adherence to a Construction Management Plan. In addition, all matters relating to the Building Regulations are issues that would be addressed under that regulatory regime.
24. The impact of the proposal on maintenance charges and the cost of insurance for residents is a private matter. Although it has been argued that the scheme would result in a loss of property prices the Planning Practice Guidance states that "[the courts] have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations¹."
25. The southern part of the appeal site has a PTAL rating of 5, whilst the northern part has a rating of 2. Given this, and my own observations, I consider the site has good access to public transport and to services and facilities.
26. Whilst the majority of properties in the area have some off-road parking, I observed that demand for on-street parking, which for part of the day is restricted to permit holders, is high. It is proposed that no additional parking spaces would be provided for the new flats. Concern has been raised that this would increase demand for on-street parking on Freelands Road, which would in turn impact on highway safety. However, it is proposed that occupiers of the new units would be prevented from obtaining car parking permits and this can be secured by a Unilateral Undertaking which is considered further below.

Planning Obligation

27. The completed Unilateral Undertaking (UU) submitted as part of each appeal secures an obligation to prevent future occupiers from obtaining parking permits within the Controlled Parking Zone. This obligation is necessary to ensure that the development would not result in an increased demand for on-street parking in accordance with Policy T6 of the London Plan 2021. The UU meets the tests set out in the Framework and the statutory test set out in regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore taken this obligation into account in my decision.

Conditions

28. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20 Class A of the GPDO is subject to conditions set out in paragraph A.2. These specify that:
 - Development must be completed within a period of 3 years starting with the date prior approval is granted.

¹ Paragraph Reference ID 21b-008-20140306

- Before beginning the development the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.
 - The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion and this notification must be in writing and include: the name of the developer; the address or location of the development; and the date of completion.
 - Any new dwellinghouse created under Class A is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as the dwellinghouse.
29. Schedule 2, Part 20, Paragraph B.18 of the GPDO also allows for the imposition of conditions reasonably related to the subject matter of the prior approval. I have considered the Council's list of suggested conditions in this light, and with regard to the advice set out in the Framework.
30. Given the conditions laid out at paragraph A.2 to Part 20 of the GPDO I am not persuaded that a separate condition requiring a Construction and Environmental Management Plan is necessary. In addition, as no new parking is to be provided as part of the appeal scheme and the Unilateral Undertaking prevents future occupiers obtaining parking permits, suggested conditions 4 and 5 are not necessary. Therefore, I have not imposed these conditions.
31. In the interests of certainty, a condition is required specifying the approved plans. In the interests of the character and appearance of the area, condition 2 is necessary. However, I am not persuaded that samples and details of all the elements listed by the Council need to be provided and am satisfied that it is adequate to ensure the details are provided before they are used, and so have amended the condition accordingly.
32. To protect the living conditions of residents, condition 3 is required, whilst condition 4 is necessary in the interests of promoting sustainable travel. However, I consider that for both conditions it would be adequate for these details to be provided before first occupation of the development and so have amended the conditions accordingly.

Conclusion

33. For the reasons given above both appeals are allowed and prior approval granted subject to conditions.

Alison Partington

INSPECTOR

Appendix A

Conditions for Appeal A

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref 23/215 001; Existing Site Plan Ref 23/215 002 Rev 03; Proposed Site Plan Ref 23/215 003 Rev 03; Existing Plans Ref 23/215 101 Rev 02; Existing Plans Ref 23/215 102 Rev 01; Existing Plans Ref 23/215 103 Rev 01; Existing Elevations Ref 23/215 121 Rev 03; Existing Elevations Ref 23/215 122 Rev 03; Existing Elevations Ref 23/215 123 Rev 03; Existing Sections 23/215 131; Proposed Plans Ref 23/215 201 Rev 03; Proposed Plans Ref 23/215 202 Rev 01; Proposed Elevations Ref 23/215 221 Rev 04; Proposed Elevations Ref 23/215 222 Rev 03; Proposed Elevations Ref 23/215 223 Rev 04; and Proposed Sections 23/215 301
- 2) Details (including samples) of the materials to be used in the construction of the external surfaces (including window frames) of the extension hereby permitted shall be submitted to, and approved in writing by, the local planning authority before the relevant materials are installed. The development shall be carried out in accordance with the approved details and samples.
- 3) Before the development hereby permitted is occupied full details of the arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned) shall be submitted to, and approved in writing by, the local planning authority. The arrangements shall be completed before any part of the development hereby permitted is first occupied and be in accordance with the approved details and permanently retained as such thereafter.
- 4) Before the development hereby permitted is occupied full details of the arrangements for bicycle parking shall be submitted to, and approved in writing by, the local planning authority. The arrangements shall be completed before any part of the development hereby permitted is first occupied and be in accordance with the approved details and permanently retained as such thereafter.

Appendix B

Conditions for Appeal B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref 23/215 001; Existing Site Plan Ref 23/215 002 Rev 03; Proposed Site Plan Ref 23/215 003 Rev 03; Existing Plans Ref 23/215 101 Rev 02; Existing Plans Ref 23/215 102 Rev 01; Existing Plans Ref 23/215 103 Rev 01; Existing Elevations Ref 23/215 121 Rev 03; Existing Elevations Ref 23/215 122 Rev 03; Existing Elevations Ref 23/215 123 Rev 03; Existing Sections 23/215 131; Proposed Plans Ref 23/215 201 Rev 03; Proposed Plans Ref 23/215 202 Rev 01; Proposed Elevations Option A Ref 23/215 221 Rev 04; Proposed Elevations Option A Ref 23/215 222 Rev 03; Proposed Elevations Ref 23/215 223 Rev 04; and Proposed Sections 23/215 301.
- 2) Details (including samples) of the materials to be used in the construction of the external surfaces (including window frames) of the extension hereby permitted shall be submitted to, and approved in writing by, the local planning authority before the relevant materials are installed. The development shall be carried out in accordance with the approved details and samples.
- 3) Before the development hereby permitted is occupied full details of the arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned) shall be submitted to, and approved in writing by, the local planning authority. The arrangements shall be completed before any part of the development hereby permitted is first occupied and be in accordance with the approved details and permanently retained as such thereafter.
- 4) Before the development hereby permitted is occupied full details of the arrangements for bicycle parking shall be submitted to, and approved in writing by, the local planning authority. The arrangements shall be completed before any part of the development hereby permitted is first occupied and be in accordance with the approved details and permanently retained as such thereafter.