

1 INTRODUCTION

- 1.1 This is an application for a single storey extension to the existing detached building, utilizing the PD rights for the property.

2 SITE AND SURROUNDS

- 2.1 The site is located on a short cul-de-sac off Brecknock Road (A5200) in west Kentish Town. It is approximately 0.03ha in area and contains a mixed use 4 storey residential block with B1 use at the ground floor. The building is not listed nor within the setting of a Listed Building, nor is it located within a Conservation Area.
- 2.2 The site is located in a predominately residential area, to the rear of the shopping parade fronting Brecknock Road, which is identified as a Local Centre in the LB Camden Core Strategy and characterised by commercial, food and drink, entertainment and residential uses. Buildings in the immediate vicinity of the site vary in age, form, height and architectural style. It is not located within a defined Employment Area.
- 2.3 The property was formerly in the ownership of the Borough who disposed of it in 2013.

3 THE PROPSOAL

- 3.1 The proposed scheme seeks Prior Approval to extend the existing detached building pursuant to Class AA of Part 20 of the GPDO for the following development:
- Single storey extension on the principal part of the building
 - A total of 2 flats are proposed, at a mix of 2 x studio,
 - The scheme is to be constructed in matching materials,
 - The Cycle/refuse store is to utilise the existing facilities

4 PLANNING CONSIDERATIONS

- 4.1 The Amendment Order was the product of planning reform brought forward to combat under-provision of residential units, and economic pressure caused by the Covid-19 pandemic. This is explained in paragraphs 7.1-7.3 of the Explanatory Memorandum which accompanies the Amendment Order.
- 4.2 We note that paragraph 7.2 of the Explanatory Memorandum to the Amendment Order refers to the 2018-2019 consultation exercise which covered the potential extension of permitted development rights, saying that the changes being considered were to “allow the extension of existing homes and to allow existing buildings to extend upwards.”
- 4.3 [This PD right](#) came into effect on 1 August 2020. The right allows construction of up to two additional storeys, subject to prior approval and certain exclusions. These must be residential and immediately above the existing top floor. Certain limitations apply. For example, the overall height of the roof of the extended building must not be more than seven meters higher than the highest part of the existing roof, and that the extended building must not be greater than 30 metres in height.
- 4.4 When construing the provisions of Schedule 2 of the GPDO, the words used should be given their literal meaning. To assist those assessing applications, the GPDO includes interpretative clauses:

C. Interpretation of Part 20

For the purposes of Part 20—

"block of flats" means a building which is divided horizontally and consists of separate and self-contained premises constructed for use for the purposes of a dwellinghouse, and any ancillary facilities constructed solely for use by occupiers of the building;

"defence asset" is a site identified on a safeguarding map provided to the local planning authority for the purposes of a direction made by the Secretary of State in exercise of the powers conferred by article 31(1) of the Procedure Order or any previous powers to the like effect²;

"detached" means that the building does not share a party wall with a neighbouring building;

"flat" means a separate and self-contained premises constructed for use for the purposes of a dwellinghouse;

"habitable rooms" means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms;

"principal part" means the main part of the building excluding any front, side or rear extension of a lower height, whether this forms part of the original building or a subsequent addition;

"purpose-built" means a building that was built as and remains as a block of flats; and "technical sites" has the same meaning as in Annexe 1 of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002.

4.5 The vast majority of these definitions are unlikely to be controversial in the determination of any Prior Approval application for additional residential accommodation on top of the buildings.

4.6 The Applicant notes that paragraph 7.7 of the Explanatory Memorandum to the Amendment Order refers to the 2018-2019 consultation exercise which covered the potential extension of permitted development rights, saying that the changes being considered were to
to allow existing purpose-built, detached blocks of flats to extend upwards to provide additional homes

4.7 And
This measure is necessary to support key Government priorities and national policy to boost housing delivery and increase densities by making effective use of existing buildings and avoiding the need to develop greenfield sites

4.8 And
the permitted development right to extend existing purpose-built blocks of flats upwards forms part of the Government's Covid-19 economic renewal package by enabling new homes to be delivered more easily

4.9 Para 7.9 of the same document explains
National policy, as set out in the revised National Planning Policy Framework¹ (paragraph 118), supports extending commercial and residential buildings upwards to provide new homes including where development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and can maintain safe access and egress for occupiers. The right delivers an element of the type of development supported by the broader policy

4.10 Planning permission is required for the carrying out of any development of land. Planning permission can be granted in a number of different ways, including by development order. Article 3(1) Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”) grants planning permission for certain classes of development known as permitted development (“PD”):

4.11 As the NPPF makes clear, the Government expects Local Planning Authorities to take an active role in guiding development towards sustainable solutions (paragraph 9) and to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area (paragraph 38). The Government advice as to the handling of the Prior Approval application is to be found online at the NPPG

“The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system”.

4.12 Para 7.1 of the explanatory memorandum which accompanied the change to the GDPO includes the following advice:

Permitted development rights can incentivise certain forms of development by providing developers with a greater level of certainty, within specific planning controls and limitations. Individual rights provide for a wide range of development and include measures to incentivise and speed up housing delivery.

4.13 And at para 7.11

Allowing an additional 2 storeys on top of purpose-built detached blocks of flats of 3 or more storeys is considered to provide more certainty for developers and local authorities, and so encourage take up, while protecting local amenity

4.14 It has been confirmed by the High Court that there is no requirement to consider the Development Plan when assessing Prior Approval applications as outlined in Patel, R (on the application of) v Secretary of State for Communities and Local Government & Ors [2016] EWHC 3354 (Admin) (21 December 2016)

5 PLANNING APPRAISAL

5.1 Fundamentally, in determining a prior approval application, or in determining an appeal in respect of the same, a local planning authority, or Inspector, is not granting a planning application; they are simply deciding whether prior approval is required in respect of the specified matters only (i.e. transport and highway impacts, contamination risks on site, flooding risks on site, noise impacts from commercial premises and natural light to habitable rooms). Consequently, other matters cannot be taken into account.

5.2 The first consideration is if the building qualifies as “*detached*”, because of the abutting retail unit. Detached is defined in Part 20, paragraph C as meaning “*that the building does not share a party wall with a neighbouring building*”. The application site is a detached building.

Permitted Development

5.3 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, together with any or all—

(a)engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;	This requirement is met.
(b)works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;	This requirement is met.
(c)works for the construction of appropriate and safe access and egress to the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;	This requirement is met.
(d)works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.	This requirement is met as the existing facility is to be used,

	along with cycle parking in the existing car park
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Development not permitted

AA.1. Development is not permitted by Class AA if—

(za)the permission to use any building as a dwellinghouse has been granted only by virtue of Class M, N, O, P, PA or Q of Part 3 of this Schedule;	This requirement is met as the host building was constructed following the grant of full planning permission.
(a)the building is less than 3 storeys in height including ground;	The host building meets this requirement as it is part two and part four storeys
(b)the building was constructed before 1st July 1948, or after 5th March 2018;	The host building was constructed after 1 st July 1948 and before March 2018
<p>Ⓒ on 5th March 2018 the building was in a use other than—</p> <p>(i) a use or mixed use within paragraph AA(2)(a) or (b); or</p> <p>(ii) a use falling within Class C3 of the Schedule to the Use Classes Order</p>	This requirement is met.
the additional storeys are constructed other than on the principal part of the building	This requirement is met
(e)the floor to ceiling height of any additional storey is	This requirement is met.
(i)more than 3 metres in height; or	
(ii)more than the floor to ceiling height of any of the existing storeys, whichever is the lesser, where such heights are measured internally;	
(f)the new dwellinghouses are not flats;	Each proposed unit is a separate and self-contained space with each provided with the facilities required for day-to-day private domestic existence [Gravesham BC v SoS for the

	<i>Environment (1982) 47P & C.R. 142</i> is met.
(g)the overall height of the roof of the extended building would be greater than 7 metres higher than the highest part of the existing roof (not including existing plant);	This requirement is met as the highest element will be 6.1m above existing roof height
(h)the extended building (not including plant) would be greater than 30 metres in height;	This requirement is met as the extended building will be 15.7m above ground level.
(i)development under Class AA.(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;	Not relevant to this application.
(j)development under Class AA.(a) would consist of engineering operations other than works within the existing curtilage of the building to— (i)strengthen existing walls; (ii)strengthen existing foundations; or (iii)install or replace water, drainage, electricity, gas or other services;	This requirement is met.
(k)in the case of Class AA.(b) development there is no existing plant on the building;	This requirement is met.
(l)in the case of Class AA.(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the new building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;	This requirement is met.
(m)development under Class AA.(c) would extend beyond the curtilage of the existing building;	Not relevant to this application
(n)development under Class AA.(d) would (i)extend beyond the curtilage of the existing building; (ii)be situated on land forward of a wall forming the principal elevation of the existing building; or (iii)be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;	This requirement is met as all additional communal facilities are provided within an existing building

<p>(o)the land or site on which the building is located, is or forms part of</p> <ul style="list-style-type: none"> (i)article 2(3) land; (ii)a site of special scientific interest; (iii)a listed building or land within its curtilage; (iv)a scheduled monument or land within its curtilage; (v)a safety hazard area; (vi)a military explosives storage area; or (vii)land within 3 kilometres of the perimeter of an aerodrome. 	<p>The site is not within a Conservation Area nor is it a listed building.</p>
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AA.2 Conditions

Where any development under Class AA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to:

<p><u>(a)transport and highways impacts of the development;</u></p> <p>The Application site is already subject to a covenant that prevent residential occupiers from obtaining a parking permit, but otherwise, two studio units will not cause a <i>severe</i> impact on the highway network</p>
<p><u>(b)air traffic and defence asset impacts of the development;</u></p> <p>No relevant infrastructure is identified near the site</p>
<p><u>(c) contamination risks in relation to the building;</u></p> <p>Not relevant to this application as the host building postdates the EPA 1990.</p>
<p><u>(d) flooding risks in relation to the building;</u></p> <p>The site is located in Flood Zone 1 and is less than 1 hectare.</p>
<p><u>(e) the external appearance of the building;</u></p> <p>Within the National Design Guide¹, the definition of appearance is as follows:</p> <p><u><i>Appearance is the aspects of a building or space within the development which determine the visual impression the building or space makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture. In the case of a space, its landscape also influences its appearance</i></u></p>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843468/National_Design_Guide.pdf

The application scheme is for a lightweight extension to the existing building, as can be seen with other developments within the local context and as explained within the accompanying Design Statement. The material to be used on the external surfaces has been endorsed by Officers at pre-application stage.

The additional height is a consequence of the grant of planning permission by order. In appeal decision (APP/Q1445/W/21/3267608), the Inspector comments:

The Council makes reference to paragraphs 118 and 127 of the Framework which support upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and is sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change (such as increased densities). It is therefore put to me that the wider character should be assessed.

When reading Part 20, Class A.2(1)(e) of the 2015 Order it is specific in referring to the external appearance of the building. I note that the 2015 Order does not permit an assessment of the impact that such external appearance may have, which may give one greater scope to consider the effect or impact of the external appearance of the building on the wider area. Therefore, in assessing whether prior approval should be granted, I consider the assessment of the matter in dispute is limited to the external appearance of the building rather than its effect on the wider area. The Framework is only relevant so far as it relates to the subject matter of the prior approval, in this case the external appearance of the building. (my emphasis)

(f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;

The Application scheme is accompanied by a BRE Assessment which states that the effect on natural light is minimal, and is within the tolerances permitted within the Littlefair methodology.

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;

The existing building and its neighbours already experience a degree of mutual overlooking but this is to be expected in such an urban environment. The additional storeys would result in further windows facing its neighbours, however due to the height above ground level and the existing situation, any additional overlooking could not be considered harmful.

Although the development will increase the height of the building by a storey, it would continue to allow natural daylight into the both the existing and neighbouring building and is not considered to create a material difference in outlook.

Overall the applicant and its advisors conclude that the impact of the proposed extension to the amenity of existing residents and neighbouring premises acceptable

(h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State,

The site is outside of the protected view framework

i) where the existing building is 18 metres or more in height, the fire safety of the external wall. construction of the existing building

The application is accompanied by a Façade Report

6 Conclusion

- 6.1 Overall, the proposals will cause no harm to the existing building, nor will there be any adverse impacts on the amenity of the area and traffic and parking are satisfactory. The new housing will meet the relevant standards for residential accommodation and will provide good quality living conditions for occupants.
- 6.2 The application proposals will have a beneficial effect on the social, economic and environmental well-being of the area. This will help to ensure that the proposals contribute positively to the Council's objective to optimise use of previously developed land at a sustainable location identified in the Development Plan for residential purpose.