

Appeal Decision

Site visit made on 24 August 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 01 October 2021

Appeal Reference: APP/N5090/D/21/3270577

131 Meadfield, Edgware, London, HA8 8XL

- 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 1, Class AA, Paragraph AA.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Harie Matia Elkiess against the decision of Barnet London Borough Council.
 - The application (reference 21/0297/PNU, dated 19 January 2021) was refused by notice dated 3 March 2021.
 - The development proposed is described in the application form as "the erection of one additional storey immediately above the existing building".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by H M Elkiess (the Appellant) against Barnet London Borough Council. This application is the subject of a separate Decision.

Main issue

3. The main issue to be determined in this appeal is the effect of the proposed development on the external appearance of the dwellinghouse.

Reasons

4. Meadfield is part of an area of residential estate development in the northern part of Edgware. It has a suburban pattern, with residential development along the street frontages, combined with some open spaces. The houses are generally two-storey brick houses with tiled roofs, mainly laid out in terraces or semi-detached pairs. Although there have been some modifications to the properties over the years, the appearance of the houses in this part of the residential estate is consistent and harmonious, if unpretentious.
5. The house at number 131 Meadfield is one of a semi-detached pair, with number 133, and it is constructed of brickwork with a tiled roof, like its

- neighbours. The house stands in a good sized plot, with off-street parking spaces in the front gardens, like many of its neighbours.
6. It is now proposed to erect an additional storey above the existing two-storey house, using matching materials and repeating existing construction details.
 7. By virtue of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), planning permission is granted for the following development:
*"The enlargement of a dwellinghouse consisting of the construction of—
(a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or
(b) one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction."*
 8. Various conditions apply, however, including a requirement to apply to the local planning authority for prior approval as to various aspects of the proposal. Thus, sub-paragraph AA.2(3) states:
*"(3) The conditions in this sub-paragraph are as follows—
(a) before beginning the development, the developer must apply to the local planning authority for prior approval as to—
(i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;
(ii) the external appearance of the dwellinghouse, including the design and architectural features of—
(aa) the principal elevation of the dwellinghouse, and
(bb) any side elevation of the dwellinghouse that fronts a highway;
(iii) air traffic and defence asset impacts of the development; and
(iv) whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State."*
 9. Paragraph AA.3 goes on to set out the "procedure for applications for prior approval". Among other things, it imposes a requirement for the local planning authority to have regard to the 'National Planning Policy Framework'. Thus, sub-paragraph AA.3(12) states:
*"(12) The local planning authority must, when determining an application—
(a) take into account any representations made to them as a result of any notice given under sub-paragraph (5) and any consultation under sub-paragraph (6) or (8); and
(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application."*
 10. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It underlines the importance of achieving good design and makes it plain that new development

should be sympathetic to its surroundings. The recent revisions to the 'National Planning Policy Framework') do not fundamentally affect these basic planning principles in the context of this appeal.

11. The 'National Planning Policy Framework' draws attention to the importance of the Development Plan although, in the context of this case, policies in the Development Plan reflect the design policies in the NPPF itself. At the same time, of course, it draws attention to the relevance of permitted development rights in principle. Indeed, paragraph 120(e) (previously paragraph 118(e)) is specifically intended to "support opportunities to use the airspace above existing residential and commercial premises".
12. The application was not a planning application to which Section 38(6) of the Planning and Compulsory Purchase Act 2004 would apply. Even so, underpinning the 'National Planning Policy Framework', the Council has drawn attention to local design policies at Policy D3 of 'The London Plan' (dated 2021), Policy CS5 of 'Barnet's Local Plan – Core Strategy (dated 2012) and Policy DM01 of 'Barnet's Local Plan – Development Management Policies' (dated 2012).
13. The proposed additional storey would be constructed of materials to match the existing building but the legislation does not merely require the use of matching materials and compliance with various dimensional criteria, for this type of extension. As noted above, decision-makers are also required to consider the "external appearance of the dwellinghouse" and although that includes consideration of "the design and architectural features of ... the principal elevation of the dwellinghouse" the generality of the appraisal is not limited by the reference to the principal elevation and a judgement regarding the design is necessary. This approach does not conflict with the case law referred to by the appellant.
14. In this case, the additional storey would create an awkward and ungainly elevation that would be unattractive in itself and would clash uncomfortably with its neighbours. Change is implicit in the permitted development rules that have been created, of course, but architectural design is not to be considered in a vacuum. In this case the harm to the appearance of the building would be critical to the architectural qualities of the building as well as to the streetscene. I am convinced that the design implications of the proposal are such that real visual harm would be caused if this appeal were to be allowed.
15. Thus, the proposed additional storey would be in clear conflict with the 'National Planning Policy Framework' and with the underlying aim of achieving good architectural design and well-designed places. I am, therefore, convinced that this appeal must fail.
16. For the avoidance of doubt, I should record the fact that, in reaching that conclusion, I have given no weight to the argument that appears to be put forward in some submissions that the permitted development regime itself is flawed.
17. I have also formed the opinion that the proposed additional storey would not have an undue impact on air traffic or defence assets or on the amenity of any adjoining premises. Nevertheless, these considerations do not outweigh my conclusions on the design and appearance issue.

18. I accept that the proposed extension would be a useful addition to the accommodation at 131 Meadfield and I acknowledge that the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits such development in principle, but subject to various constraints. In this case, I am convinced that the resulting appearance of the building would be unacceptable, nevertheless, and that the appeal must be dismissed. Although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR