



Appeal Decision

Site visit made on 14 September 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 OCTOBER 2021

Appeal A Ref: APP/U5930/W/21/3266658

33a Fladgate Road, London E11 1LX

- 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 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Richard Rains (Secureland) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 203231, dated 21 October 2020, was refused by notice dated 16 December 2020.
 - The development proposed is prior approval for the construction of a roof extension to a detached block of flats to create a new second and third floor providing 2 x 2 bed and 2 x 1 bed self-contained flats (Class C3) with provision for bicycle parking.
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Appeal B Ref: APP/U5930/W/21/3272099

33a Fladgate Road, London E11 1LX

- 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 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Richard Rains (Secureland) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 210249, dated 28 January 2021, was refused by notice dated 18 March 2021.
 - The development proposed is prior approval for the construction of a roof extension to a detached block of flats to create a new second and third floor providing 1 x 1 bed and 1 x 2 bed self-contained flats (Class C3) with provision for bicycle parking.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. Since the appeals were submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeals of

this change, and I am satisfied that no prejudice would be caused by my consideration of the appeals in light of the revised Framework.

5. The appeals are 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'). Class A 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.
6. 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 a number of specified 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 Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeals on the same basis.
7. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan referred to by the main parties insofar as they are material to the matters for which prior approval is sought.
8. Having assessed the application, the Council is content that the development complies with the limitations in Part 20, Class A paragraph A.1 and I see no reason to take a different view.

Main Issues

9. The main issues for both Appeals A and B are:
 - Whether or not prior approval should be granted for the proposed development with particular regard to the requirements of Part 20, Class A paragraphs A.2(1) (a) and (e) relating to transport and highway impacts of the development (construction activities), and the external appearance of the building.

The additional main issues solely relating to Appeal A are:

- Whether or not prior approval should be granted for the proposed development with particular regard to the requirements of Part 20, Class A paragraphs A.2(1) (a) and (f) relating to transport and highway impacts of the development (parking), and the provision of adequate natural light in all habitable rooms of the new dwellinghouses.

Reasons

External appearance (Appeals A and B)

10. Fladgate Road predominantly consists of 2 storey residential buildings of varied architectural design that are situated on a consistent building line behind modest front gardens. Whilst the appearance of the buildings is varied, their comparable scale and pitched roofs provide a consistent rhythm to the street scene. No 33a Fladgate Road comprises 4no flats that are accommodated on

3 floors. The flat on the third floor is provided within the pitched roof space and is served by dormer windows to the front and rear roof slopes. Front dormers are not a feature of neighbouring properties, however the height and scale of the existing building respects the rhythm of the buildings in the street scene. The appeal property has a proportionate appearance, comprising a pitched roof above 2 storey external walls, which does not appear bulky.

11. There is no definition of the term 'external appearance' in the context of paragraph A.2(1)(e) of Part 20, Class A of the GPDO. To my mind, it will be a matter of judgement having regard to the circumstances of the case as to whether the external appearance of the building is considered in isolation. The street context may be an aspect of the building's external appearance, and what is acceptable on one site may not be on another.
12. Given that the appeal building is viewed within a linear street frontage of residential dwellings, I find that it would not be appropriate to consider the external appearance of the building in isolation. As such, the matters for consideration will include the intrinsic design of the building itself, along with its relationship with the nearby properties in the building's context. The term 'appearance' relates to the way that something looks, and so that will include matters of form, materials, height, and massing.
13. The proposal in Appeal A would provide an upward extension, resulting in a 4 storey flat-roofed building. The external walls of the upward extension would be flush with the existing ground and first floor walls, and they would be finished in matching brickwork. As a result of the proposed extension, the building would have a blocky form and massing. Furthermore, there would be little articulation and detailing on the elevations, which would look bland. Taken together, these factors would result in a building of poor-quality appearance.
14. Regarding its relationship with the nearby context, the height of the extended building would project conspicuously above the adjacent rooflines, and its blocky form would cause the upper floors to extend significantly forward of the adjacent pitched roofs. Given the close proximity of the adjacent buildings, the proposal would have a jarring relationship, and the height and scale of the extended building would appear dominant in the street scene, at odds with the consistent rhythm of the 2 storey buildings.
15. The proposal in Appeal B would have a mansard roof at third floor, including front and rear dormers, which would be finished in zinc cladding. This would lighten the third floor to some extent and result in the proposed extended building appearing less bulky than Appeal A. Nevertheless, the increase in height of the building would result in a large, bland front wall with little articulation or detailing. Despite the provision of a mansard roof, the massing of the building would appear overly bulky. In respect of the relationship with the nearby context, the extended building would project noticeably above the adjacent rooflines and forward of the pitched roofs. The height and scale of the extended building would appear dominant in the street scene and at odds with the consistent rhythm of the 2 storey buildings.
16. I acknowledge that Dyson Road includes 3 and 4 storey blocks of flats, however this is in a different road and there is a greater separation to the neighbouring lower buildings, which results in a less jarring relationship. I have nevertheless determined the appeal schemes on their own merits.

17. I have had regard to the appellant's reference to an appeal decision¹ relating to prior approval for external appearance of the building under Part 20, Class A of the GPDO, however the associated plans are not before me. Furthermore, the Inspector in that appeal found that the external appearance of the proposed building would be acceptable when taken by itself, which is not my finding in respect of the current appeals. I have set out above that the site circumstances of the current appeals are such that the relationship with the adjacent context is a material consideration.
18. I appreciate that the permitted development rights establish the principle for an upward extension, however this does not negate the requirement to address the conditions placed on development permitted under Class A.
19. For the above reasons, I conclude that the proposals in Appeals A and B would cause significant harm to the external appearance of the building. The proposals would therefore be contrary to Policy CS15 of the Waltham Forest Local Plan Core Strategy 2012 (the Core Strategy) and Policy DM29 of the London Borough of Waltham Forest Local Plan Development Management Policies 2013 (the DMP), which, amongst other things, seek high quality design from all new housing development. There would also be conflict with Chapter 12 of the Framework with regards to achieving well-designed places.

Transport and highways - Construction (Appeals A and B)

20. Given the modest scale of the proposed development, it would be likely to generate only a small amount of construction traffic, and so I am satisfied that the imposition of a planning condition to require the submission of a construction management plan, including details of construction logistics, would mitigate the effect of the proposal on the local highway network.
21. Furthermore, Paragraph A.2(3) of Part 20, Class A states "*Any development under Class A is permitted subject to the condition that 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 impacts of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated*". The terms of this condition would mitigate the effect of construction activities on the living conditions of the occupiers of neighbouring properties.
22. In respect of Appeals A and B, I therefore conclude that the transport and highway effects associated with construction activities could be adequately mitigated through a planning condition. The proposals would therefore accord with Policy T4 of the London Plan 2021, Policy CS7 of the Core Strategy and Policies DM13 and DM32 of the DMP, which, amongst other matters, seek to ensure that development is properly integrated with the transport network, and manage the impact of new development on neighbouring amenity.

Natural light (Appeal A)

23. The proposed second and third floor accommodation would have a similar layout to the existing first floor of the building. The rooms would be well-proportioned, and the living/dining/kitchen areas would be open plan. The habitable rooms would each be served by windows in the external wall, which

¹ Appeal reference: APP/T1410/W/20/3263486

would provide adequate levels of natural light. The proposal would therefore accord with Policy CS2 of the Core Strategy and Policies DM7 and DM32 of the DMP, which, amongst other things, seek to ensure that sufficient daylight/sunlight would be provided for the intended occupants of new habitable rooms.

Transport and highway - parking (Appeal A)

24. The appeal site is located in a Controlled Parking Zone. There are no parking capacity surveys before me, however I observed that there is high demand for on-street parking, which seems to be due to the limited availability of off-street parking facilities in the area. The proposal would increase the number of flats at the site to 7, which would be served by the existing 4 parking spaces to the rear of the building. The increase in units would be likely to exacerbate demand for on-street parking in an area that already experiences parking stress.
25. Policy DM16 of the DMP states that the Council will seek to effectively manage parking and to ensure the provision of safe and attractive parking facilities by, amongst other things, encouraging car-free and car-capped development in locations that are highly accessible by public transport; are accessible to opportunities and services; and/or have high levels of parking stress.
26. The appellant does not dispute the need to limit parking permit entitlement for future occupiers of the proposed development. In this regard, the appellant has submitted a draft legal agreement with the appeal, which covenants that the occupiers Flats 5, 6 and 7 shall not be entitled to a parking permit within a Controlled Parking Zone in the Borough (subject to disabled persons exemptions). The agreement has not been executed, however as I am dismissing the appeal for other reasons it has not been necessary for me to pursue this matter further.

Conclusion

27. I have found that the proposals in Appeals A and B would cause significant harm to the external appearance of the host building, which amounts to sufficient grounds to dismiss the appeals.
28. For the reasons given above, I conclude that the appeals should be dismissed.

C Osgathorp

INSPECTOR