



---

## Appeal Decision

Site visit made on 21 September 2021

**by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 October 2021**

---

**Appeal Ref: APP/U5360/W/21/3269678**

**St John and Lady Cohen Court, Rookwood Road, Hackney, London N16 6SD**

- 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 (GPDO) 2015 (as amended).
  - The appeal is made by Mr Moshe Brinner (Rookwood Foundation Limited) against the decision of the Council of the London Borough of Hackney.
  - The application Ref 2020/3447, dated 10 November 2020, was refused by notice dated 05 January 2021.
  - The development proposed is a prior approval for the erection of two additional storeys to the principal building to provide 10 additional residential dwellings.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The GPDO grants planning permission for up to two additional storeys of new dwellinghouses on detached blocks of flats, subject to limitations and conditions under Article 3(1) and Schedule 2, Part 20, Class A. To gain permission, before beginning the development, the developer must apply to the Council for prior approval. Here, such a prior approval was refused by the Council on grounds of adverse impact on the external appearance of the building in conflict with condition A.2(1)(e) and the amenity of the existing building and neighbouring premises, including overlooking, privacy and loss of light in conflict with condition A.2(1)(g).
3. In considering whether to grant planning permission for development which affects a listed building or its setting, S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this case, the s66(1) duty does not apply because planning permission is granted for this development by Article 3(1) of the GPDO. In this regard, the proposal before me is a prior approval and my consideration is limited to the conditions and their terms, as set out above, in dispute between the main parties.
4. The Council also refused prior approval on the lack of submitted information to assess the impact of the proposal in terms of the fire safety of the external wall construction of the existing building in conflict with condition A.2(1)(i). The appellant has submitted this information with the appeal. However, under

GPDO transitional arrangements for this class, consideration of such a condition is not applicable due to the date of the application and therefore, there is no requirement to consider this issue and information here.

## **Main Issues**

5. The main issues are whether or not the proposal would accord with the provisions of Schedule 2, Part 20, Class A of the GPDO, with regard to (a) the external appearance of the building and (b) the amenity of neighbouring premises including overlooking, privacy and loss of light.

## **Reasons**

### *External appearance*

6. The appeal site comprises a mainly six storey block of flats at the corner of Rookwood Road and Egerton Road. The block was constructed between 1977 and 1979 as a residential property comprising 42 residential units. Its exterior is articulated with projecting bays, mainly fenestrated, and is constructed with brick and painted concrete external materials. Planning permission has been granted for a brick facing side extension up to seven storeys at the corner of the two roads which is being implemented.
7. The proposed roof extension would result in additional two floors with a flat roof above which would be constructed in a zinc vertical seam cladding material. The flat roof would have small scale sloping mono-pitch roofs on its sides and there would be no distinctive eaves features distinguishing them from the new vertical facing storeys below. Proposed windows would be noticeably deeper, different sized and aligned compared to those existing below. The roof extension would be positioned close to the exterior of the existing block on the east (facing Rookwood Road), north (facing the side of the row of dwellings on Rookwood Road) and west (facing two storey school buildings along Egerton Road) elevations.
8. Due to its design, the extension would appear box-like, overly bulky and dominant on top of this existing block. The lack of any meaningful articulation to the extension, including setbacks and recesses, would result in an overly imposing development and a top heavy appearance to the building. The deep sized fenestration would contrast markedly with smaller depth windows below emphasising the domineering nature of the development in relation to the existing building. The different sized and aligned fenestration would also have the effect of creating visually incoherent and muddled elevations on the building.
9. The appropriateness of the zinc metal material has been disputed but this external treatment could work at the top of this building, subject to the submission and approval of samples, and empirical evidence on its long term durability. However, this would not address the fundamental design issues relating to bulk, dominance and design. The permitted seven storey extension is being built on south elevation facing Egerton Road and there would be no setbacks, including for the top floor, from the original block. However, the proposed extension would be another storey higher and would be of considerable width across the west and east elevations of the block. Therefore, the absence of meaningful setbacks would be material for the scheme put forward here.

10. Reference has been made to a nearby development at 130 Clapton Common where proposals for a mixed use development, extending up to 12 storeys in height, has been permitted. The appeal proposal would extend to 8 storeys in height. However, buildings and proposals will inevitably differ in their nature and a proposal of this type has to be considered on its particular planning merits, taking into legislative requirements relating to prior approvals.
11. For all these reasons, the external appearance of the building would be adversely impacted upon in conflict with condition A.2(1)(e) of Class A.

#### *Amenity*

12. The roof extension would flank onto the two storey terraced housing on Rookwood Road to the north. It would be separated by an area of hardstanding at ground level. Opposite the site, there would be further two storey housing on the other side of Rookwood Road. Behind the site, the extended block would back onto two storey buildings in use as part of a school.
13. To the north on Rookwood Road, the nearest terraced house has a blank and windowless flank except for a small rooflight. Its neighbouring dwelling has first floor flank windows on a rear building projection. The neighbouring properties also have rear gardens but the separating distance, measured diagonally from the high level roof extension down to these properties, would be significant. From an elevated height, the viewing angle would also be so acute to make the act of undertaking a look downwards for new residents physically awkward and therefore, unlikely. Similarly, the separating distance and looking down angle in relation to the housing opposite the site on Rookwood Road and school buildings behind the site on Egerton Road would be significant. For all these reasons, there would be no significant loss of privacy for these neighbouring residents and users. Such a view is supported by the appellant's cross section line drawing in their statement of case showing the relationship of the development and the residential properties opposite.
14. A Daylight/Sunlight Report (DSR) was prepared to support the application for the nearest affected windows of the two dwellings to the north and four dwellings opposite on Rookwood Road. The report indicates that when applying the Vertical Sky Component test under a professionally recognised standard<sup>1</sup> all windows retain over 90% of their current values. When applying the Annual Probably Sunlight Hours test under this standard, each window would also retain over 88% of existing sunlight values. This demonstrates that proposals are comfortably in compliance with the standard.
15. Due to the orientation of the building, the DSR has undertaken an overshadowing assessment of the private garden to the terraced dwelling to the north of the site. A detailed model study, provided within the DSR demonstrates that, post development, this property is unaffected by the proposals, with its rear garden retaining 100% of existing sunlight levels.
16. The DSR is comprehensive, taking into account accepted standards and practice, and provides compelling evidence that there would be no adverse loss of daylight and sunlight to the living areas and external amenity space of neighbouring dwellings. For all these reasons, the amenity of neighbouring

---

<sup>1</sup> Building Research Establishment Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice 2011.

premises, having regard to overlooking, privacy and loss of light, would not be adversely impacted upon in compliance with condition A.2(1)(g) of Class A.

### **Conclusion**

17. The prior approval should be refused for the reasons set out. The external appearance of the building would be adversely impacted upon in conflict with condition A.2(1)(e) of Class A, Part 20, Schedule 2 of the GPDO. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jonathon Parsons*

INSPECTOR