



Appeal Decision

Site visit made on 9 November 2020¹

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/E5900/W/21/3277326

42 Headlam Street, London E1 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 Ranjeet Singh (Lohia Ltd) against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00525, dated 5 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is to add a two-storey extension comprising 4 x one-bedroom flats with associated refuse and recycling facilities and cycle storage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ranjeet Singh against the Council of the London Borough of Tower Hamlets. This application is the subject of a separate Decision.

Procedural Matters

3. On 1 August 2020 the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) was amended¹ to introduce a new Part 20 Class A to Schedule 2 of the Order. This Part grants permission for development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey of a purpose-built detached block of flats. Permission is also granted by this Part for any or all engineering operations, replacement of plant, construction of safe access and other ancillary facilities reasonably necessary to support the new dwellinghouses.
4. Paragraph A.1(a) to (o) sets out a range of circumstances in which development is not permitted whilst paragraph A.2(1) to (6) sets out conditions applicable to development permitted under Class A. Paragraph A.2(1)(a) to (j) also sets out the matters for which an application for prior approval must be made. Paragraph B sets out the procedure for making an application to a local planning authority for prior approval and paragraph B(15) the requirement to take into account any representations made as a result of consultation, and to have regard to the National Planning Policy Framework (the Framework), so far

¹ Inserted by the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020

as relevant to the subject matter of the prior approval, as if the application were a planning application. I have determined the appeal on this basis.

5. I have adopted the shortened development description set out on the appellant's Appeal Form in the description set out above as I consider it to be usefully more concise. I am satisfied that neither party would be prejudiced by doing so, and I have determined the appeal accordingly.

Main Issues

6. The main issues are:

- The effects of the proposed development on the external appearance of the building;
- The impact of the proposed development on the amenity of neighbouring premises including overlooking, privacy and the loss of light; and
- The transport and highways impact of the development; and
- Whether the proposed development would make adequate provision for the storage of refuse and recycling facilities.

Reasons

External appearance

7. The existing building is a modest and well-proportioned modern block of residential flats. Whilst its already heavily articulated façade is somewhat at odds with the strongly horizontal emphasis, simple linear alignment and repetitive fenestration of the flats opposite and elsewhere on Headlam Street, it is nevertheless respectful of them. It is, in simple terms, relatively unobtrusive and goes about its business in an understated and discrete manner.
8. The proposed extension would however lack the balance and modest proportions of the existing building. The addition of two further storeys, clad in the same materials as the existing flank elevation and top-most floor, would significantly and harmfully alter the existing building's modest and discrete proportions, giving the upper floors (the existing top floor plus the two additional floors) an undue and harmful degree of prominence.
9. The existing building's simple hierarchy of scale, proportions and height would be lost. Moreover, the visual benefit of the existing top floor set-back would be lost as a consequence of the additional height and bulk of the proposed extension. As a result, the upper floors would no longer be a recessive feature of the building but instead would come to dominate the appeal building in a harmful and incongruous manner.
10. This would be harmful in isolation, the resulting building appearing top-heavy and somewhat cumbersome in appearance, but these factors would be further highlighted in the appeal site's immediate context and setting. The strong horizontal emphasis, linearity and repetition of fenestration on the buildings nearby serve to underline the incongruous nature of the proposal's effect on the appeal building, and also in the context of the surrounding buildings.
11. With regard to the upwards continuation of the external cladding on the building's west facing elevation, I accept that extensive and largely blank flank

elevations are not necessarily uncommon on residential blocks within the surrounding area. It may well have been the case when originally constructed to its current four-storey height that the cladding finish of the flank elevation did not cause the Council concern. However, in this instance, the greater height and area of the extended flank elevation is a significant contributory factor in the proposal's top-heavy nature.

12. Reference is made to a recent appeal² case where an Inspector concluded that whilst an increase in height of up to two storeys may result in a divergent relationship between buildings this was an inevitable consequence of the permitted development right and implicit in the regulations. That may be so, but it does not negate the requirement to address the conditions placed upon the development permitted under Class A, of which one is to give consideration to the effect of the proposal upon the building's external appearance.
13. I accept that there is no single architectural style present within the surrounding area and, as the appellant also highlights, buildings range from four to five / six storeys to seven and eleven storeys. However, whilst there is some variety it is not as definitive for the appeal building's context as is suggested. Instead, it is the more modest 4 and 5 storey buildings of Headlam Street and Collingwood Street against which the appeal building is most closely seen and is the context in which the extended building would lie.
14. It is a matter of planning judgement as to whether consideration is given to the effect in terms of the building's intrinsic design and / or to the effect in terms of the building's relationship with adjoining or nearby properties. As such, it may not always be appropriate to just consider the external appearance of the building in isolation; the street context may be an aspect of the building's external appearance. Thus, comparison with those buildings on Headlam Street and Collingwood Street is appropriate and, in this instance, underlines the inappropriate and harmful effect the proposed extension would have on the external appearance of the appeal building that I have identified.
15. In this instance, and for the reasons I have set out, the proposal would give the building an awkward, top-heavy appearance. In addition to the harmful effect this would have upon the building's character, proportions, appearance and scale, it would also give it an incongruous and jarring appearance compared with the strong horizontal emphasis and clean lines of the buildings on Headlam Street and Collingwood Street. This would amount to significant harm arising to the external appearance of the building from the proposed extension.
16. As set out by paragraph B(15)(b) I have had regard to the provisions of the Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In relation to the external appearance of the building, the proposal would be in conflict with the Framework's aim of achieving well designed places and high quality, beautiful and sustainable buildings.

Amenity

17. Paragraph A.2(1)(g) considers the impact of the proposal on the amenity of neighbouring premises, including overlooking, privacy and the loss of light. As

² APP/T1410/W/20/3263486

this is not a closed list, it was not reasonable of the Council to consider other factors that capable of influencing the amenity of neighbouring premises beyond those set out.

18. The Council do not dispute the conclusions of the appellant's '*Daylight and Sunlight Report*³ (DSR) in respect of average daylight factor, vertical sky component or annual probable sunlight hours. Nor is a case made that the extension to the building would result in unacceptable overlooking or loss of privacy of neighbouring premises leading to a loss of amenity. I do not disagree.
19. With regard to outlook from the windows of the nearest neighbouring flats of the building at 2 – 36 Headlam Street, the extract from a 'Visual Impact drawing' showing a section through both buildings and included with the appellant's Statement of Case is instructive. Whilst seeking to demonstrate that the outlook from the ground and first floor windows of this building would be little different as a consequence of the proposed extension, it also demonstrates that occupiers would have to stand much closer to the windows at ground and first floor level, and to look further upwards, to be able to get an unobstructed sky view beyond the building's extended roofline.
20. Clearly, the existing building is already a significant factor in the outlook from the ground and first floor windows of the building at Nos. 2 – 36. However, the extension would not bring the building any closer to the rear of Nos. 2 – 36 and the closest windows within it. The added height of the extended element of the building would, to varying degrees, be appreciable from the closest windows at all four storeys of Nos. 2 – 36. However, having regard to the extract section set out in the DSR, and the DSR's conclusions in respect of average daylight factor, vertical sky component or annual probable sunlight hours, I am satisfied that the proposal's impact on the amenity of neighbouring premises, including in terms of overlooking, privacy, loss of light and outlook, would be acceptable and there would be no breach of the condition set out at paragraph A.2(1)(g) of the Order.

Transport and highways impacts

21. The existing occupiers' cycle parking needs are currently served by an enclosed storage area at ground floor, adjacent to the entrance into the building. It is not disputed that the proposal would carry with it a requirement for the provision of a further four cycle spaces, or that the existing storage area cannot cater for an additional four cycle spaces.
22. Instead, the required additional spaces would be provided in a further ground floor storage area adjacent to the existing store. The capability of the allocated area to accommodate the storage of four cycles was also not disputed, and I have no evidence before me to lead me to conclude otherwise.
23. However, I agree with the Council that the submitted plans and elevations are somewhat ambiguous as to how the storage facility would provide secure, weatherproof and inclusive with step-free access, despite the Transportation and Highways consultation response suggesting just that. However, paragraph B(18) states that prior approval under this Class may be granted subject to conditions 'reasonably related to the subject matter of the prior approval'. In

³ Environmental Economics – 42 Headlam Street 'Daylight and Sunlight Report' February 21

this instance, I am satisfied that the apparent misgivings about the detailed arrangements and provision of cycle storage could be satisfactorily dealt with by way of an appropriately worded condition. Such an approach would fulfil the stated intention of such matters be reasonably related to the subject matter of the prior approval.

Refuse and recycling facilities

24. At present large communal refuse and recycling bins are stored within a recessed area at the front of the building on Headlam Street. An extract of a revised ground floor plan was submitted with the appeal showing this area accommodating a range of re-proportioned waste bins. I note that the Council do not dispute the appellant's justification for the re-proportioning of the bins or the calculations regarding the respective sizes of the bins for refuse, dry recyclables and food waste.
25. Class A(d) grants as 'permitted development' any or all works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses. The appellant proposes no works for the construction of such facilities in relation to refuse storage. The sizes of the existing communal wheeled bins would be altered in line with the detail set out by the appellant, but they would be housed within the existing recessed area. As such, as no works of construction are proposed the provisions of paragraph A.1(n) are not contravened and Class A(d) is not engaged.

Other Matters

26. As a consequence of clarification provided by the Council, the appellant has stated that a unilateral undertaking to secure the development as 'car-free' will not be submitted. As I am dismissing the appeal for other reasons I have not considered this matter further at this time.

Conclusion

27. Notwithstanding my conclusions in respect of transport and highways impacts, amenity and refuse facilities, I conclude that the proposal would lead to significant harm to the external appearance of the building. Although the proposal would provide four additional dwellinghouses in the context of significantly boosting the supply of homes, it would conflict with the Framework as a whole with regards to achieving well-designed places and the role that such matters play in the social and environmental objectives of sustainable development as set out by the Framework.
28. For these reasons, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR