
Appeal Decisions

Site visit made on 7 December 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal A Ref: APP/N5090/W/21/3278632

Sharon Court, 14 Alexandra Grove, London N12 8NX

- 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 Geoffrey Gay of 89 to 95 Elgin Avenue Ltd against the decision of London Borough of Barnet.
 - The application Ref 21/0157/PNV, dated 12 January 2021, was refused by notice dated 9 March 2021.
 - The development proposed is addition of two storeys at third and fourth floor levels comprising 3no self-contained flats.
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Appeal B Ref: APP/N5090/W/21/3278639

Sharon Court, 14 Alexandra Grove, London N12 8NX

- 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 Geoffrey Gay of 89 to 95 Elgin Avenue Ltd against the decision of London Borough of Barnet.
 - The application Ref 21/1943/PNV, dated 7 April 2021, was refused by notice dated 8 June 2021.
 - The development proposed is additional storey at third floor level to provide 3no self-contained flats.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matters

2. The principle of development is established by Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). 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 in so far as they are material to the matters for which prior approval is sought.
3. Paragraph B(15) of Part 20, Class A of the GPDO 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 National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of the appeals has been made on the same basis.

4. As set out above there are two appeals on this site. Appeal A relates to two additional storeys and Appeal B relates to one additional storey. Both schemes would provide 3 flats. I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the two proposals together, except where otherwise indicated.
5. In the case of both appeals I have taken the description of development in the heading above from the appeal forms.

Main Issue

6. The main issue is whether the proposed development would be granted planning permission by the GPDO with regard to the requirements of paragraphs A.2(1) (e) and (g) relating to the external appearance of the building and the impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.

Reasons

External appearance of the building

7. The appeal relates to a three storey block of flats located within a predominantly residential street. It sits next to a block of flats with a similar appearance and height. The area is predominantly characterised by two storey dwellings of varying designs and sizes set behind green and open frontages resulting in a pleasant residential environment.
8. I acknowledge that the prevailing height of properties in the area is two storey. However, the principle of upward extensions is established by the GPDO. The increased height and additional storeys permitted cannot, in my view, be considered to be discordant with building heights in the area for the purposes of Part 20, Class A.
9. The context of paragraph A.2(1)(e) suggests a relatively narrow assessment as to the external appearance of the proposal itself, including the design and architectural features, rather than its effect on the wider area. In the case of both appeals the proposals would be constructed from materials to match Sharon Court, the windows would reflect those of the host building and their positioning would align with the floors below. This would ensure visual continuity. Thus, the additional storeys would integrate into the building without being unduly prominent or incongruous.
10. Overall, in respect of both Appeals A and B, I find the proposals to be acceptable in terms of their external appearance.

Impact on the amenity of neighbouring premises

11. 16 Alexandra Grove is a two storey dwelling that has been extended to the rear and neighbours Sharon Court. It sits at an angle to the appeal property with an elongated garden that in part wraps around the rear of the site. Due to the close spatial relationship and orientation of the buildings there is a degree of mutual overlooking.
12. Despite the appellant's contention, the resultant height of the proposed development due to its proximity with No 16 would be appreciable from outside and inside the property. Whilst less pronounced in respect of Appeal B, the

increased scale would be visually obtrusive resulting in a harmful overbearing effect on the occupiers of this property.

13. I acknowledge that window to window overlooking would be limited due to the spatial relationship between the host property and neighbouring ones. However, the height and position of the proposed windows in the rear elevation in close proximity to the boundary with No 16, and due to the angle of the buildings would result in actual and perceived overlooking of the garden. This would lead to an unacceptable loss of privacy for the occupiers of No 16 adversely affecting enjoyment of their garden.
14. In respect of this matter, the appellant has drawn my attention to a permission granted at Paul Court. However, I am not persuaded it is directly comparable to the scheme before me. In any event every appeal must be considered on its own merits, as I have done. As such I have given this example minimal weight in coming to my decision.
15. I have paid regard to the appellant's Sunlight and Daylight Assessment and the Addendum which sets out that the garden would still receive adequate sunlight, in accordance with Building Research Establishment guidance. Notwithstanding the results of the assessment, I find that the development would nonetheless result in significant harm to the living conditions of the occupants of No 16.
16. Consequently, I conclude that the proposed development would adversely affect the living conditions of existing neighbours of No 16 by virtue of loss of outlook and privacy. This would be contrary to Policies DM01 of the Barnet Development Management Policies Development Plan Document (2012) which, amongst other things, requires development to allow for adequate privacy and outlook for adjoining occupiers and users.
17. It would also be contrary to guidance contained within the Council's Supplementary Planning Document: Residential Design Guidance (2016) which, amongst other things, seeks to safeguard residential amenity including privacy and outlook.

Other Matters

18. I note that representations were made by local residents raising additional concerns. However, given my findings, it is not necessary to consider these matters in detail.

Conclusion

19. For the reasons set out above Appeal A and Appeal B do not succeed.

B Thandi

INSPECTOR