



Appeal Decision

Site visit made on 14 February 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/Y5420/W/21/3275880

28-39 Bronhill Terrace, Lansdowne Road, London N17 0LN

- 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 Abraham Ost, Liberty Estates London Ltd, against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/0909, dated 19 February 2021, was refused by notice dated 16 April 2021.
 - The development proposed is two storey roof extension above principal building to create 8 additional dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 20, Class A of the GPDO establishes that new dwellinghouses on detached blocks of flats are permitted development subject to several restrictions and conditions. One of these requires an application to be made for prior approval as to the external appearance of the building.
3. Since the Council determined the application, the London Plan (2021) (LP) has been adopted. Therefore, Policies 7.4 and 7.6 of The London Plan (2016) referred to in the reason for refusal are no longer relevant. The Council has provided a copy of Policy D6 of the LP. Given the length of time between the adoption of the LP and submission of the appeal, I am satisfied that both parties have had the opportunity to consider the LP.
4. In any event, in prior approval cases there is no requirement to have regard to the development plan as there would be for development requiring planning permission. Nevertheless, Policy SP11 of the Haringey's Local Plan: Strategic Policies 2013-2026 (consolidated 2017), Policies DM1 and DM12 of the Haringey's Development Management DPD (2017) and Policy D6 of the LP are material considerations. In determining an application, the local planning authority must take any representations made into account. It must also have regard to the National Planning Policy Framework so far as relevant to the prior approval matters, as if the application were a planning application. The same approach will be taken in deciding the appeal.
5. An appeal has also been submitted for an alternative scheme at the appeal site. I have determined the appeal on the basis of the scheme before me.

6. The main parties were given the opportunity to comment on the recently issued High Court judgement¹ and I have determined the appeal accordingly.

Main Issue

7. There is no dispute regarding any of the limitations on permitted development in paragraph A.1. Consequently, the main issue is the effect of the proposed development on the external appearance of the building (A.2(1)(e)).

Reasons

8. The appeal site comprises a 4-storey residential block of flats. Currently the fourth floor is a mansard roof. The immediate street scene primarily contains 2-3 storey residential buildings. Whilst there are taller buildings within the surrounding area, the host building has little visual connection with those buildings and instead has a greater relationship with the neighbouring lower buildings.
9. The roof height and siting of the scheme comply with the parameters set out in the GPDO in those regards. The proposed mansard walls would be sloped to the rear and includes a parapet above the third floor with materials to match the existing slates. The windows have been designed to match the existing windows to the floors below.
10. The appellant initially asserted that the surrounding area is not a consideration when assessing proposals under Part 20, Class A and referred to an appeal decision to support their stance. However, that appeal was determined prior to the legal judgement. Furthermore, the roof extension at 48-58 Hampden Lane cannot be directly compared to the scheme before me as this is a three-storey building which has a single storey mansard styled roof addition. The appellant acknowledges that the legal judgement confirms that external appearance is not limited to the impact on the subject property, but also neighbouring premises and the locality.
11. The proposed development would result in the building appearing to have a two-storey mansard roof. The design of the proposed development, which includes limited detailing, would result in an excessive level of massing to the upper section of the building. This would appear disproportionate to the external appearance of the host building. It would also be out of keeping with the modest scale and height of the surrounding buildings. Due to primarily the scale of the proposed development, it would have a poor relationship with the locality. Accordingly, the proposed external appearance would be out of keeping with the host building and the locality due to the proposal's scale, massing, design and detailing.
12. For these reasons, the proposed external appearance of the building would result in unacceptable harm (A.2(1)(e)).

Other Matters

13. The appellant has referred to St Mary the Virgin Church, which is a Grade II listed building, opposite the site to the south. The Council raise no concerns in respect of the effect of the development on the setting of the listed building, and I have no substantive reason to consider otherwise. Given the distance to

¹ CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

the listed building, I am satisfied that the proposal would have a neutral effect on the significance of the designated heritage asset. This is a neutral consideration and does not weigh in favour of the appeal.

Conclusion

14. For the reasons given above, the appeal does not succeed.

L M Wilson

INSPECTOR