



Appeal Decision

Site visit made on 5 April 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/Z5060/W/21/3289540

Ashdown Court, Harts Lane, Barking IG11 8LE

- 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 Gluck against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/01096/PRIFLAT, dated 15 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is the construction of new dwellinghouses on detached blocks of flats. The proposed development involves the construction of two additional storeys on top of the detached block of flats to create 14 new units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided a more detailed description of the development on the application form which also included an assessment of its effects on the building. The Council's decision notice and the appellant's appeal form gave a more succinct description of the works. I have therefore used it in the above banner heading.
3. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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.
4. 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 appeal on the same basis.

5. 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.

Main Issues

6. The Council was satisfied that the proposal met the limitations set out in paragraph A.1 and would be permitted development. I have no reason to come to a different view.
7. The main issues are therefore whether or not prior approval should be granted having regard to a) the impact on the occupiers of the neighbouring premises, principally through a loss of outlook and creating a sense of enclosure; and b) the external appearance of the building.

Reasons

Neighbouring Occupants

8. Ashdown Court is a part three/part four storey block of flats. The lower, outer parts of the building are three storeys with the larger central, L-shaped section being four storeys. Britannia Court is a five-storey block of flats immediately to the rear (north-east) of the appeal site. It is orientated such that various window openings directly face Ashdown Court. The first four floors are all a similar distance from the appeal building, with the fifth floor set slightly further back in places.
9. The proposed additional storeys would closely follow the footprint of Ashdown Court's taller, central section. This central section extends rearwards towards a projection that provides accommodation to Britannia Court at the third and fourth storeys.
10. For the most part the distance between the additional storeys to Ashdown Court and Britannia Court would be the same as the existing situation. I acknowledge that the views from some flats on the 4th and 5th floors of Britannia Court may be slightly curtailed, but this is different from their general outlook and sense of enclosure. The existing relationship between the two buildings already influences the outlook and sense of enclosure many of the existing occupiers of Britannia Court experience and this would not significantly change or diminish as a result of the proposal.
11. However, the rearward element of the additional storeys would extend all the way to the point where Ashdown Court almost abuts the Britannia Court projection. However, whereas Ashdown Court is currently below the highest part of this projection, the proposal would see it extend well above it. This would create a proximity and relationship that does not currently exist between the top floor occupants of Britannia Court and Ashdown Court.
12. I acknowledge the daylight/sunlight report submitted by the appellants and accept that the effect on these neighbours in terms of light would be limited. However, it would result in a distinctly reduced outlook to these residents and create a sense of enclosure where none previously existed. I accept that occupiers would still retain an outlook to the sides of the proposed development, but this would not overcome the obvious change to the outlook experienced by these neighbouring occupiers nor the overbearing relationship

that would arise directly in front of them. Whilst the properties are set within an urban context, the resulting relationship would be unneighbourly and unsatisfactory.

13. For the above reasons, the impact on the living conditions of the occupants of Britannia Court, principally through a loss of outlook and creating a sense of enclosure would not be acceptable.
14. The proposal would not accord with the National Planning Policy Framework (the Framework) insofar as it seeks to ensure developments create a high standard of amenity for existing and future users.
15. Policies GG1 and GG3 of the London Plan 2021, Policy BP8 of the Borough Wide Development Plan Document 2011 (BWDPD) and Policy DMD1 of the Draft Local Plan Regulation 19 consultation version 2020 (DLP), amongst other things, seek to protect the amenities of neighbours and minimise adverse impacts of development. The proposal therefore also conflicts with these policies, but only insofar as they are material considerations relevant to the main issues of the case.
16. Although the Council has made reference to London Plan Policy D14 and Policy DMD1 of the DLP, these appear to relate to issues of noise. I have no substantive evidence before me to indicate this would be an issue to which neighbours would be subject were the appeal to have been allowed. Construction impacts are addressed within the GDPO by requiring the developer to submit a report for the management of the development's construction, prior to its commencement.

External Appearance of the Building

17. The central, four storey L-shaped part of Ashdown Court is predominantly finished in brick, with two bay window features positioned centrally within the Harts Lane frontage. The proposal would result in fifth and sixth storeys being constructed over the central section of the building.
18. The additional storeys would be constructed in line with the existing building beneath and would replicate the existing floors in terms of repeating the materials, the pattern of windows and the floor-to-ceiling heights of the existing building. Thus, in terms of its appearance the building would only significantly change by virtue of its height.
19. An increase in the height of a building is an inevitable consequence of the permitted development right and supports the Government's objective of significantly boosting the supply of homes.
20. However, in this particular instance, by increasing the central section of the building by two storeys an imbalance in the overall proportions would result, thereby creating a jarring visual relationship with the rest of the building as a whole. The result would be an incongruous form of development, detrimental to the external appearance of the building. Whilst it would retain a symmetrical appearance, especially when viewed from Harts Lane, this would not overcome the harm I have identified.
21. For these reasons, I conclude on this main issue that the external appearance of the building would not be acceptable. It would also not meet the objectives of the Framework in its broad design aims.

22. Policies D1, D4 and D8 of the London Plan 2021, Policy CP3 of the Core Strategy Development Plan Document (CS), Policy BP11 of the BWDPD and Policies SP2, SP4 and DMD1 of the DLP require, amongst other things, a high standard of urban and architectural design to be achieved. The proposal therefore also conflicts with these policies, but only insofar as they are material considerations relevant to the main issues of the case.
23. However, I find no direct relevance to Policy CC2 of the CS, as this relates to social infrastructure to meet community needs.

Other Matters

24. I acknowledge the extant permission which exists for the building and the potential as a fall-back option. However, as one additional storey across the building it would have a very different relationship and effect on the living conditions of neighbouring occupiers on the upper floor of Britannia Court than the scheme which is before me.
25. Similarly, although the appellant suggests that only the central section of the extant permission could be built, thereby creating a two-storey difference in height between the building's elements, this seems to me to be no more than a theoretical possibility.
26. The appellant points to only two objections having been received from occupants of Britannia Court. This may in part be a reflection of my own findings that to a large extent existing occupiers will not generally be significantly affected by the proposal given the existing relationship between the two buildings. However, the number of representations does not in itself mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its total effects in regard to the main issues of the case.
27. The appellant identifies a number of issues such as flood risk, contamination, transport/highways, size of the proposed flats which are said not to be in contention. However, many of these matters are a condition of the prior approval process, without which the scheme would not meet the necessary basis on which to proceed.

Conclusion

28. I have found that the proposal would adversely affect the living conditions of neighbouring occupiers and would cause unacceptable harm to the appearance of the building. It therefore fails to meet the conditions set out in paragraph A.2 of the GPDO. For this reason, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR