



Appeal Decisions

Site visit made on 4 May 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal A: APP/U5360/W/21/3281179

22 Cazenove Road, Hackney, London N16 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class AB of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Adler of Beckmont Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/0247, dated 15 January 2021, was refused by notice dated 24 March 2021.
 - The development proposed is described as erection of a single storey roof extension over the existing mixed-use building to provide two additional residential units (Use Class C3).
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Appeal B: APP/U5360/W/21/3281182

22 Cazenove Road, Hackney, London N16 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class AB of The Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr Adler of Beckmont Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/1787, dated 28 May 2021, was refused by notice dated 9 August 2021.
 - The development proposed as erection of a single storey roof extension over the existing mixed-use building to provide two additional residential units (Use Class C3).
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Decisions

Appeal A

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for erection of a single storey roof extension over the existing mixed-use building to provide two additional residential units (Use Class C3) at 22 Cazenove Road, Hackney, London N16 6BD in accordance with the application Ref 2021/0247 made on 15 January 2021, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 20, Class AB.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same site but to different schemes. I have considered each on its individual merits, however, in order to avoid duplication, I have dealt with the appeals together, except where otherwise indicated.
4. I have shortened the descriptions in the banner headings above to remove unnecessary reference to the GPDO.
5. An application for costs in relation to Appeal B was made by Mr Adler of Beckmont Ltd against the Council of the London Borough of Hackney. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:
 - the effects of the developments on the external appearance of the building; and
 - in relation to Appeal B, whether the development would comply with any conditions, limitations or restrictions applicable to the development in question, having particular regard to the construction of storage, waste or other ancillary facilities.

Reasons

External appearance

7. The matters for prior approval in relation to Class AB set out in paragraph AB.2(1)(e)(i)(aa) and (bb) are the external appearance of the building, including the design and architectural features of the principal elevation, and any side elevation that fronts a highway. In this regard the parties dispute the extent to which such an assessment can or should be set within the context of the site's surroundings.
8. The submissions show that this matter has been the subject of some mixed interpretation by Inspectors, and recent consideration by the Courts. Given its ordinary meaning, use of 'including' in paragraph AB.2(1)(e) does not limit the matters which can be taken into account to those listed. Nor does the language used therefore indicate that a decision maker may only assess the impact of a development on the external appearance of the building wholly in isolation. Indeed, as it is unlikely that any building subject of development under Class AB would ever viewed wholly in isolation, its impact would ultimately be perceived with some reference to the surrounding context. I therefore agree with the Council that the assessment should logically be undertaken having regard to the surroundings within which the development would take place.
9. The appeal site is a flat roofed 3-storey building. It stands at the end of a mixed row of buildings, the closest components of which are also 3-storey and flat roofed, and of generally similar height. Though classed as a 'terrace building' for the purposes of Class AB, that subject of these appeals is clearly of later date than the other flat roofed buildings in the row, and its architectural details differ. Other buildings within the row, and other 3-storey buildings within the broader streetscene are not flat roofed, albeit the roofs of some are partially obscured by parapets.

10. The scheme subject of Appeal A would see the proposed additional storey designed, detailed and clad to appear as a 'roof'. This would immediately add visual interest and variation to the existing rectilinear form, enhancing its otherwise bland and utilitarian appearance. The development would also show some similarity to the mansard roof forms seen elsewhere within the immediate streetscene, thus forging a visual connection with the surrounding context. Though a clear contrast would nonetheless arise with the adjoining flat roofed buildings, taking into account broader variation, and the fact that the appeal property is already of recognisably differing age, design and construction, the relationship would not appear incongruous.
11. Though in assessing the application subject of Appeal A the Council took issue with the fact that the additional floor would not match the floors below, no requirement for this is set out within paragraph AB.2(1)(e). I have otherwise been provided with no grounds to consider that the proposed treatment would be atypical of a building of its type or age.
12. The scheme subject of Appeal B differs insofar as it would entail simple upward extension, adding a floor matching those below. This would achieve direct integration, albeit without any of the visual merits of the scheme subject of Appeal A. Indeed, matching upward extension would simply emphasise the existing utilitarian character of the building, whose increased overall massing would be starkly accentuated by the lack of any variation in form or detail. As in the case of Appeal A, the scheme would not upset any existing sense of uniformity. Nonetheless, no direct parallel could be drawn between the building as modified and development either within the row of which it forms part, or the broader streetscene. Unlike the scheme subject of Appeal A therefore, the development would appear both visually unattractive and incongruous.
13. It is clearly the case that any development subject of Class AB will result in increased massing. That does not mean that this will always be appropriate. Indeed, the way in which mass is perceived, as too therefore its acceptability, varies partly depending upon detailed design and context. This is simply illustrated by comparison of the 2 appeal schemes as set out above.
14. Insofar as it is relevant, the National Planning Policy Framework states that decisions should ensure that developments are visually attractive as a result of good architecture. This supports the Government's overarching objective of creating high quality, beautiful and sustainable buildings. In view of my findings above these objectives would be fulfilled in the case of Appeal A, but not in the case of Appeal B.
15. For the reasons set out above I conclude that the effects of the development on the external appearance of the building would be acceptable in relation to Appeal A, but would be unacceptable in relation to Appeal B.

Waste facilities

16. Paragraph AB.1(o)(ii) states that where development under Class AB(3)(d) would be situated on land forward of a wall forming the principal elevation of the existing building, that development would not be permitted development. In this regard development under Class AB(3)(d) is development consisting of works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

17. The plans show that larger bins would be provided to serve the increase in residential occupation of the building, and that these bins would be positioned forward of the front elevation. This is however understood to be a position in which bins are normally kept at present. As shown on the plans, and further confirmed in the Design and Access Statement, no construction would be involved as the bins would be freestanding. Given that development under Class AB(3)(d) specifically consists of works for construction, it is not therefore applicable.
18. Exactly the same details are shown on the plans subject of Appeal A, though no objection was raised by the Council in that case. My findings above thus equally apply to Appeal A.
19. For the reasons set out above I conclude that the development subject of Appeal B would not conflict with the conditions, limitations or restrictions applicable in relation to the construction of storage, waste or other ancillary facilities.

Conditions

20. In relation to Appeal A prior approval is permitted subject to the conditions set out within Schedule 2, Part 20, Class AB, paragraph AB.2. No further conditions have been requested, and none are required.

Conclusions

Appeal A

21. For the reasons set out above I conclude that the appeal should be allowed and prior approval granted.

Appeal B

22. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR