



Appeal Decision

Site visit made on 10 May 2022

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 9th June 2022

Appeal Ref: APP/J0405/W/22/3290489

1-12 Bishops Walk, Aylesbury HP21 7LF

- 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) (GPDO).
- The appeal is made by Hyjan Investments Holdings Ltd. against the decision of Buckinghamshire Council - North Area (Aylesbury).
- The application Ref 21/03899/PADDF, dated 29 September 2021, was refused by notice dated 23 November 2021. The development proposed is described as, 'prior approval for creation of a third and fourth floor roof extension to create 7no. residential units, (2x 1-beds and 5x 2-beds), together with vehicle and cycle parking'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3, Schedule 2, Part 20, Class A of the GPDO, planning permission is granted for new dwellinghouses on detached blocks of flats subject to limitations and conditions.
3. Paragraph A.2 of Part 20 requires the local planning authority to assess matters such as 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. From the evidence these are the areas of dispute between the main parties.

Main Issues

4. Therefore, the main issues are the effect of the proposed development on
 - external appearance of the building; and
 - the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.

Reasons

External appearance

5. The existing building is a three-storey rectangular block of flats with a pitched roof. The materials on the building include red brick, tiles and some render. As such the building has a simple, residential character.
6. There are generally blocks of three and four storey flats to the north of the site with two storey semi-detached and terraced dwellings to the west and south.

However, the spacing between the blocks are such that the area has a pleasant, spacious character and appearance.

7. To the northeast lies Ripon House, a four-storey block of flats oriented perpendicular to the appeal building. The proposal would result in a building one storey taller than Ripon House. To the southwest of the proposal lies a terrace of two storey dwellings which are in close proximity to the end of the existing building.
8. The building would be the tallest in the vicinity of the site. Although it would be one storey taller than Ripon House, it would be three storeys taller than the two storey dwellings to the south which are closer. This significant difference in the height of buildings which are sited near to each other would appear incongruous in the area and would unacceptably alter the spacious character of the area.
9. The proposed set back at the top floor would be at the ends of the building and would be modest. Moreover, given the width, height and form of the proposal, the largely homogenous massing would appear bulky and dominant in the area. Therefore, although the proposal would be in keeping with the existing building in terms of materials, the proposed increase in height and massing would result in an unduly bulky and prominent external appearance. As such the scheme would unacceptably reduce the spacious residential character of the area.
10. The site benefits from planning permission for a third-floor roof extension that would result in the building being a similar height as Ripon House. Since there is a realistic possibility of the permission being implemented should this appeal fail, it forms a fall-back position.
11. The proposal would be a storey taller than the fall-back scheme and despite the setback on the ends of the upper floor, this storey would be visible from the two storey dwellings as well as from the roads surrounding the building. Since the proposal would be taller than the fall-back scheme, it would appear more dominant in the area and therefore more harmful.
12. I note the Appellant's view that in the context of the GPDO, external appearance is confined to an assessment of the impact of that appearance on the subject property itself. However, the GPDO does not contain any language to the effect that the decision-maker may only assess the impact of that external appearance on the building itself. As such, it is reasonable to assess all relevant aspects of external appearance, not only those which impact the subject building.
13. Consequently, the proposed development would have an unacceptable effect on the external appearance of the building.
14. Paragraph B(15)(b) of Schedule 2, Part 20 of the GPDO requires that regard must be had to the National Planning Policy Framework (Framework) so far as relevant to the subject matter of the prior approval as if the application were a planning application. Paragraph 130 of that Framework, amongst other things, states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. The proposed change of use would be contrary to these policy objectives.

Overlooking, privacy and light

15. The Daylight and Sunlight Assessment dated September 2021 indicates that all of the assessed neighbouring windows would retain a Vertical Sky Component of 27% or not less than 0.8 times their former level. This change to the level of daylight is considered acceptable under BRE Guidelines.
16. The ground floor windows of Ripon House that face the appeal site currently receive low levels of daylight and inadequate Annual Probable Sunlight Hours. While the proposal would reduce these levels further, the distance from the appeal building to Ripon House is significant such that the difference would be modest and the proposal would not unduly affect the living conditions of the neighbouring occupiers in this respect. Nos 39-43 Chaucer Drive (Nos 39-43) are orientated perpendicular to the building such that the difference in levels of direct light would not unduly harm the living conditions of the neighbouring occupiers in this respect.
17. The Council also has concerns regarding the outlook of the neighbouring occupiers of Ripon House and Nos 39-43. The fall-back scheme would increase the height of the building by a storey. The proposal would further increase the height of the building by another storey. Given the distance between the site and Ripon House, the outlook of the neighbouring occupiers would not be unduly affected in this respect.
18. The existing building is orientated perpendicular to Nos 39-43, and the outlook from the closest of these dwellings are likely to be dominated by the flank elevation of the building. The set back of the proposed additional floor would decrease the perception of it from the neighbouring dwellings at Nos 39-43. Therefore, the additional storey would not unduly affect the outlook from these properties.
19. The Council has not objected to the scheme in terms of overlooking and privacy. From the evidence before me I see no reason to disagree.
20. Consequently, the proposed development would have an acceptable impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.

Other Matters

21. I note the concerns of existing occupiers of the building regarding noise and disturbance during the construction phase. A suitably worded condition could mitigate the effect of construction on the living conditions of neighbouring occupiers.
22. I also acknowledge the evidence regarding parking. Given my finding on the external appearance of the proposal, this matter has not altered my overall decision.
23. The main parties have drawn my attention to a number of appeal decisions which support their respective views. I note the comments of the Inspectors for these cases including at Hove¹ and Evesham². However, these decisions were made prior to a High Court judgement this year. As such they are not directly relevant to this appeal.

¹ Appeal Ref: APP/Q1445/W/21/3267608

² Appeal Ref: APP/H1840/W/21/3266807

Conclusion

24. For the reasons given above, the appeal should be dismissed.

R Sabu

INSPECTOR