



Appeal Decision

Site visit made on 17 May 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2022

Appeal Ref: APP/V5570/W/21/3286238

272 - 276 Highbury New Park, London N5 2LH

- 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 AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) (as amended).
 - The appeal is made by Quintas Homes Limited against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/2244/PRA, dated 29 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is two storey upwards extension to provide 6 flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Class AA of Part 20 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) planning permission is granted for new dwellinghouses on detached buildings in commercial or mixed use, subject to limitations and conditions.
3. As detailed within the GPDO, development under Part 20, Class AA is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for prior approval. The Local Planning Authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
4. The provisions of the GPDO require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations. There are effectively two stages to assessment – the first being eligibility. The Council conclude that the proposal is eligible to be considered under the prior approval process and have not raised any conflict with the conditions set out in the GPDO. There is no evidence to conclude differently in that regard. They have however, raised concerns in respect of the effect of the development upon the external appearance of the host property under AA.2.(1) (e). The consideration of the appeal shall therefore focus on this matter.
5. The Council have referred to a number of development plan policies. As the principle of development has been established through the grant of permission by the GPDO, prior approval appeals are not determined on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. However, I have taken the

development plan policies into account insofar as they are relevant to the prior approval matter under consideration.

6. Since the determination of this application, the following High Court Judgement has been handed down: CAB Housing LTD v SSLUHC & Broxbourne; Beis Noeh LTD v SSLUHC & LB Haringey; Mati. Rotenberg v SSLUHC & LB of Haringey [2022] EWHC 208 (Admin). The appellant has had the opportunity to comment on the Judgement and I have considered those comments received.

Main Issue

7. Whether prior approval should be granted having regard to the external appearance of the building (AA.2.(1)(e)).

Reasons

8. The appeal building is a four storey modern apartment block with partial basement level comprising mainly residential apartments but with commercial uses on part of the ground floor. The building is situated adjoining the post-war Highbury Quadrant Estate, which itself is an estate of 20 blocks of 4 storey apartment buildings that are almost identical in appearance. The gaps in between the buildings are characterised by green spaces and substantial trees. Many of the trees themselves are higher than the surrounding buildings.
9. Directly adjoining the appeal building is an elongated 2 storey pitched roof building constructed of red brick which is an anomaly in an area that generally comprises higher buildings with a more compact floorplan made from buff or London stock brick. Nevertheless, this building exists and is one such feature that the appeal building relates to in terms of scale, mass and form, through having maintained a modest height and synergy with other buildings in the surroundings.
10. The proposal is to increase the height of the building by an additional two storeys in a matching design to the existing building which would provide six additional apartments. The design, fenestration arrangement and construction materials of the new upper floors would match that of the existing building and it would have a flat roof as per the present arrangement, albeit with relocated plant.
11. By adding two extra floors above, the development as proposed, would fundamentally alter the architectural composition of the property within this street context. Though the appeal building is already different to the 4 storey blocks within the Highbury Quadrant Estate, it has a directly adjoining neighbour that is more different still and its overall four storey height from street level assimilates well within this context without exacerbating these differences. Were the building to have an overall height of 6 storeys, it would appear visually dominant and incongruous in context with its surroundings, would harmfully exacerbate the height difference when compared with the adjoining 2 storey building and would compete with the upper heights of the trees which are important positive domineering features within the area.
12. As acknowledged by the appellant, the recent Judgement has established that the effects on the external appearance of the building are capable of being assessed in a broader context and it is for this reason that the appeal proposal is considered unacceptable. The resultant marked increase in scale, the bulkier form and altered appearance of the building would be discordant and visually

dominant when considered in the context of the pleasantly, largely homogenous surrounding built environment.

13. Therefore, taking all of the above into account, I find that the proposal would have an unacceptable and harmful effect on the external appearance of the building. Whilst not determinative, I have had regard to Policies CS8 of Islington's Core Strategy (2011) and DM2.1 of the Local Plan: Development Management Policies (2013). These Policies, amongst other things, seek to ensure that development is of high quality, incorporates inclusive design principles and makes a positive contribution to the character and distinctiveness of an area.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

Hollie Nicholls

INSPECTOR