



Appeal Decision

Site visit made on 15 July 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2022

Appeal Ref: APP/G5750/W/21/3289782
108 - 118 Wellington Road, London E7 9BP

- 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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Uospace Construction Services against the decision of London Borough of Newham.
 - The application Ref 21/01775/PREA, dated 15 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is the erection of two additional storeys at roof level to provide eight new self-contained apartments (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), 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.
3. As detailed within the GPDO, development under Class A is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval.
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. The Council consider that the proposed development would, due to its external appearance harm the character and appearance of the area, and harm the amenities of occupants of the adjacent residential property. I therefore consider these to be the main issues in the appeal.
5. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issues

6. The main issues are whether prior approval should be given, having particular regard to 1) the resulting external appearance of the building, and 2) the impact of the proposed development on the amenity of neighbouring premises with regard to overlooking, privacy and outlook.

Reasons

External appearance

7. Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to, amongst other things, the external appearance of the building.
8. The appellant considers that in considering the '*external appearance of the building*' this should be confined solely to the building in question and not to its wider context or the street-scene. In reaching this view, the appellant has included several appeal decisions where Inspectors took such a view. However, I would point out that the Order does not make such a suggestion. Secondly, and, in any event, it is a matter of planning judgment as to whether consideration is given to the effect in terms of the building's intrinsic design and/or to the effect in terms of the building's relationship with adjoining or nearby properties.
9. It is therefore not necessary and will not always be sensible or appropriate to consider the external appearance of the building in isolation; the street context may be an aspect of the building's external appearance. What is acceptable on one site may not be on another.
10. In considering whether control of external appearance is limited to its effects on the subject property itself, as opposed to its surroundings, the Courts have held that there is nothing in the language of the GPDO to justify this viewpoint. The Order 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. The Courts have held that the decision maker is therefore empowered to assess and control all relevant aspects of that external appearance, and not simply those which impact on the subject building.
11. The appeal property is located on Wellington Road, which is a tight linear street, predominately made up of two storey terraced properties. To that extent I do not consider it to be appropriate to consider the external appearance of the building in a vacuum or in isolation. The surrounding buildings are, in this case, a relevant aspect of the consideration of the effect of the development on the external appearance of the building.
12. The appeal property is a detached three storey block with a flat roof. Although it forms one of the more dominant buildings in the street, it sits relatively comfortably in its surroundings.
13. It has a white rendered ground floor elevation with a lightly coloured facing brick on the majority of the first and second floors. There is a distinct white rendered band across the top of the building. The proposed third floor would continue the use of facing brick and white render with balconies at each side. The proposed fourth floor takes a different approach using dark cladding and

different fenestration. The proposed fourth floor is set back from the edge of the building and in this case would vindicate a different design approach and use of materials to the rest of the building. I do find however, that the extensive use of such dark cladding would clash harshly with the white render and light-coloured brick used throughout the building, making the resulting top-floor appearing particularly dominant and causing a minor degree of harm. The final colour could, however, be subject to an appropriately worded condition were I to allow the appeal.

14. The appeal building sits in an area of predominantly two-storey properties that create two distinct linear forms. The proposed development involving the addition of a further two storeys would result in a harmful incursion into the established rhythm and general consistency of building heights. The resulting building would be highly visible from long range views in the street and due to its scale and massing, it would appear hugely dominant and discordant with the surrounding built environment. The resulting building would visually compete with the other properties and would materially detract from the consistency and balance afforded to the otherwise lower-level development in the area.
15. The appellant has referred to examples of larger buildings being sited adjacent to smaller buildings. Field Point is a purpose-built standalone block set within its own grounds, which unlike the appeal property does not appear as tightly confined to an existing linear street pattern. The building on Woodgrange Road, unlike the appeal property, occupies a prominent corner site in a more commercialised area, adjacent to a railway viaduct. The building at Gazelle House bears most similarity to the appeal building, insofar as it appears to sit tightly amongst properties of lower level. Although I do not have full details of the background to give this example significant weight, it does however serve to demonstrate the dominant impact additional storeys can have. I do not consider that it justifies allowing harmful development. For these reasons, I therefore give limited weight to the examples referred to by the appellant.
16. For the above reasons, I find that significant harm would be caused to the external appearance of the building. In this respect, the proposed development would not accord with paragraph 126 of the Framework (2021) which seeks to create high quality, beautiful and sustainable buildings and places.

Amenity of neighbouring premises

17. Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to, amongst other things, the impact on the amenity of neighbouring premises including overlooking, privacy and the loss of light.
18. The appeal property sits adjacent to a two-storey detached dwelling, no. 106 Wellington Road. Although they broadly follow the same building line to the front, the appeal property extends much deeper into its site than the dwelling at no. 106.
19. In terms of overlooking and privacy, the plans show that flat nos. 3.1 and 4.1 would have habitable room windows in the side elevation of the resulting building, and roof terraces that would make overlooking of the rear of no. 106 permissible. Were I to allow the appeal, prior approval could be granted subject to conditions requiring the use of obscure glazing to these windows and the

installation of a screen to the side of the roof terrace and thus removing the potential for harmful impacts.

20. The existing building forms a dominant feature in terms of the outlook from the rear of no. 106. The proposed development adding an additional two storeys to the existing building will exacerbate this impact even with the topmost storey being set-in slightly from the side elevation. Due to the increase in scale and mass, when viewed from no. 106, the resulting development would appear oppressive and overbearing.
21. I am however referred to an extant planning permission to construct a three-storey extension to the side of the building that would be sited on the boundary with no. 106. I have no reason to doubt that there is a realistic prospect of this development taking place, and thus it is a material consideration of significant weight. The evidence shows that due to its size and siting there would be no greater impact on the outlook from the rear of no.106 from the appeal proposal than the consented scheme. Taking this extant consent into account, it would be unreasonable to conclude that the proposed development would cause unacceptable harm.
22. The proposed development would therefore comply with paragraph 130 of the Framework (2021) which outlines that planning decisions should ensure, amongst other things, that development creates places with a high standard of amenity for existing users.

Other Matters

23. The appellant has referred to a number of discussions held with the Council at pre-application stage and the Council's findings during their consideration of previous planning applications. They do not, however, represent formal planning decisions and furthermore they relate to different forms of development than the appeal proposal. I therefore give these matters limited weight. I have considered the appeal on its own individual planning merits.

Conclusion

24. Although I have found that there would not be an unacceptable impact in terms of the amenities of neighbouring premises, I have concluded that the proposed development would cause significant harm in terms of the resulting external appearance of the building.
25. Therefore, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR