
Appeal Decision

Site visit made on 15 August 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/E5900/W/21/3288006

302 Devons Road, London E3 3PN

- 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), 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 Sebastian Church (Cliveden Land Limited) against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/01013, dated 1 April 2021, was refused by notice dated 29 June 2021.
 - The development proposed is described as 'Application for prior approval of a proposed 6 additional residential units: New dwellinghouses on detached block of flats, under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class A'.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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 GPDO) for a proposed 6 additional residential units: New dwellinghouses on detached block of flats at 302 Devons Road, London, E3 3PN in accordance with the application PA/21/01013, dated 1 April 2021, and the plans submitted with it, subject to the standard GPDO conditions and the following conditions:
 1. No superstructure works shall take place until samples and full particulars of all external facing materials to be used in the construction of the development have been submitted to and approved in writing by the local planning authority. Details submitted pursuant to this condition shall include:
 - a) external cladding including all types of brick or other cladding material to be used, details of bond, mortar and pointing for brick and details of joints, panel sizes and fixing methods;
 - b) drawings, at a scale of no less than 1:20, of the fenestration and new doors including reveals, sills and lintels;
 - c) roofing;
 - d) balconies and associated balustrades, soffits and drainage;
 - e) external rainwater goods, flues, grilles, louvres and vents; and
 - f) any external plant, plant enclosures and safety balustrades.

The development shall not be carried out other than in accordance with the approved details.

2. None of the residential units shall be occupied until arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - a) no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - b) any occupiers of the approved development shall surrender any such permit wrongly issued or held.

Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.

Preliminary Matters

2. It is common ground that the appeal scheme meets the requirements of part 20, Class A, paragraph A.1 of the GPDO such that it would constitute development permitted under Class A, subject to the prior approval of certain matters. For permitted development under Class A, namely the construction of 2 additional storeys of new dwellinghouses on a purpose-built detached block of flats, prior approval is required in respect to several matters, set out in paragraph A.2.
3. For consistency and clarity, I have used the proposal's description within the Decision Notice and within the appellant's appeal statement in preference to the one referred to on the application form through reference to the AndArchitect's Permitted Development Statement Rev A 01/04/21.
4. I note that the appellant's name was incorrectly spelled on the appeal form and I have used the corrected one in this Decision.
5. It is noted that the drawings submitted to the Council for the prior approval application had 'V1' in the pdf file name, but 'XX' on the drawing title block. While the Council has used 'V1' in the decision notice, I am satisfied that the drawings submitted for the appeal are the same drawings as submitted for the application.
6. The application 'Proposed Extension at 302 Devons Road, London E3 3PN - Version 2' by David Maycox & Co (Daylight Report - Version 2) did not include a 'no sky line' (NSL) assessment. As part of the appeal, the appellant submitted a revised 'Daylight Report - Version 3' which includes an NSL assessment. As this information provides further clarification of the daylight assessment rather than any change to the proposal, and all parties have had the opportunity to comment on this through the appeal process, I do not consider that any interests would be prejudiced if I take this amended report into account. I have therefore determined this appeal on the basis of the

information referred to on the Decision Notice, as well as the 'Daylight Report - Version 3' submitted as part of this appeal.

7. The Council, appellant and interested parties have referred to development plan policies, including the London Plan 2021. As the principle of development has been established through the GPDO, this appeal is 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 matters under consideration.
8. The Council refers to National Planning Policy Framework (the Framework) dated 2019 in its Decision Report. In July 2021, the revised Framework was published. I have determined the appeal within the context of the revised Framework and as all parties have had an opportunity to comment on the appeal I consider that there would be no prejudice to the parties in regard to this.

Main Issue

9. The main issue in this appeal is whether prior approval should be granted under Schedule 2, Part 20, Class A of the GPDO, having particular regard to:
 - the external appearance of the building; and
 - impact on the amenity of neighbouring premises with respect to the loss of light.

Reasons

External appearance

10. The GPDO, condition A.2.(1)(e) requires assessment of the impact of the proposal on the external appearance of the building.
11. The appeal property is a four storey block of flats located at the corner of Devons Road and Whitethorn Street. Other than the two storey Angle of Bow Public House, the appeal property is flanked to the front by a five storey property and to its rear and ends by three and four storey ones. A high rise block of flats is located relatively close to the rear of the appeal property and there are also examples of six storey and taller buildings within the nearby area. The proposal would add two storeys onto the property. The proposed fifth storey would have a similar appearance to the existing building form with Juliet balconies and the sixth storey would be a standing seam cladding system.
12. The height increase would be on an end block, which is positioned between two existing buildings to the front and rear and within an area characterised by various building heights and forms. Notwithstanding the lack of any significant elevational setback, an increase in height would not look top heavy, incongruous or unbalanced amongst the surrounding buildings or when seen at the end of Devons Road vistas. The proposal would increase the visibility of the property's side elevation facing Whitethorn Street. However, in the context of the existing relatively wide building separations, the adjacent open junction area and existing landscape strips with part tree screening, this would not look excessively high, bulky or austere.
13. Accordingly, the external appearance of the proposed building would be acceptable. It would also accord with Policy S.DH1 of the Tower Hamlets Plan

2031 which seeks amongst other matters for development to be to a high standard of design which is appropriate in scale, height, mass, bulk and form in its site and context.

Loss of light to neighbouring premises

14. The GPDO, condition A.2.(1)(g) also requires assessment of the impact of the proposal on the amenity of the existing building and neighbouring premises including the loss of light.
15. The Daylight Report - Version 3 considers the combined impacts of the proposal on the existing and neighbouring premises. In relation to loss of light, the Council confirmed that the proposal would be acceptable for the new flats and the vertical sky component and annual probable sunlight hours for the neighbouring premises, and I concur with these findings. Furthermore, the NSL assessment provided confirms that the proposal would be Building Research Establishment compliant with any loss of light being less than 0.8 times its former value. This therefore confirms that the combined impact on loss of light from the proposal on neighbouring premises would be acceptable and I have received no substantive evidence to the contrary.
16. Due to the height, size and orientation of the existing building, the garden of Flat 14 of the existing building is already subject to shade for much of the day. The proposal would not significantly alter this situation.
17. For the above reasons, I conclude on this issue that the impact on the existing building and neighbouring premises in relation to the loss of light would be limited and acceptable. It would also accord with Policy S.DH8 of the Tower Hamlets Plan 2031 which seeks, amongst other matters, for development to ensure unacceptable deterioration of sunlight and daylight to surrounding development does not occur.

Other Matters

18. There is an existing relationship between the appeal property and the neighbouring properties with respect to overlooking and privacy. While the proposal would increase the number of flats overlooking some adjacent buildings, the separation distances and the fact that there is existing overlooking would remain. As such there would be no substantial change to the existing overlooking and privacy situation from the proposal.
19. A number of concerns are raised regarding construction impacts, including service supplies. However, requirements to agree the management of the construction could be controlled by an appropriate condition. This would allow impacts from construction on occupiers of the building and adjoining owners or occupiers to be appropriately mitigated.
20. Representation regarding the proposal's impact on parking, public transport and transport trips have been raised and while these are noted, a condition could be imposed which requires the development to be car-free. This would ensure traffic impacts from the proposal would be mitigated.

Conditions

21. While I have noted the conditions suggested by the Council and appellant, a number of these are already set out in paragraph A.2 of Schedule 2, Part 20, Class A. These are required to be complied with and include:
- The development must be completed within a period of 3 years starting with the date of this decision;
 - The development must be carried out in accordance with the approved details;
 - Before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated;
 - The developer must notify the local planning authority of the completion of the development as soon as practicable after completion in writing including the name of the developer, address or location of the development and date of completion; and
 - Each new dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended) and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.
22. I have also included a condition to ensure a satisfactory external appearance of the development and that high quality materials and finishes are used. Furthermore, to meet the aims of Policy D.TR3 of the Local Plan, which seeks to ensure parking is controlled and promote sustainable travel patterns, I have imposed a condition to ensure the development is car free.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

J Symmons

INSPECTOR