



Appeal Decision

Site visit made on 12 September 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/N5090/W/22/3291426

1-12 Haughmond, Woodside Grange Road, London N12 8ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required 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 appeal is made by Deftbrent Limited against the decision of London Borough of Barnet.
 - The application Ref 21/4809/PNV, dated 3 September 2021, was refused by notice dated 3 November 2021.
 - The development proposed is Additional storey at third floor level to provide 4no self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This application for Prior Approval is proposed by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(GPDO). The provisions of Schedule 2, Part 20, Class A of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan only in so far as they are a material consideration where relevant to the main issue. Paragraph B(15)(b) of Part 20 requires that regard is had to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if it were a planning application.
3. The application form is undated. As such, I have taken the application date from the appeal form.
4. Schedule 2, Part 20, Class A permits 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. I concur with the Council that the proposal meets all of the criteria contained in paragraph A.1 (a-o) of the GPDO for it to be considered as permitted development. Nevertheless, in considering the proposal against Paragraph A.2(e) of the GPDO, the Council refused its prior approval due to its considered effect on the external appearance of the existing building and its local context.
5. The relevant condition, found in Paragraph A.2(e) of the GPDO, is whether it is undesirable for the external appearance of the building to be altered. The Appellant asserts that the GPDO is worded such that the Council's assessment

should solely focus on the resulting appearance of the host building. Several appeal decisions, from 2021, have been submitted that confirm that assessment of this matter should be limited to the external appearance of the building rather than its effect on the wider area.

6. Nevertheless, the High Court issued judgement in the case of CAB Housing Ltd v SSLUHC [2022] EWHC208 (Admin), earlier this year. This concerned the operation of Class AA of Schedule 2, Part 1 of the GPDO, but included comments that 'the issues in this case also affect the proper construction and ambit of permitted development rights granted by GPDO 2015 under Classes ZA, A, AA, AB, AC and AD of Part 20.' This concluded that the issue of 'principle', does not crystallise until that procedure is completed. It also found that "the Order does not contain any language to the effect that the decision-maker may only assess the impact of the external appearance on the dwellinghouse itself. That interpretation involves reading additional words into the legislation when there is no legal justification for doing so". I see no reason why this judgement would not be applicable to the appeal before me.

Main Issue

7. The main issue is whether the proposal complies with Schedule 2, Part 20, Class A, Paragraph A.2 (e) of the GPDO with respect to the external appearance of the building.

Reasons

8. The existing building is a modern, three-storey block of flats, with wide horizontal windows and a footprint in an 'H-shaped' plan form. It has a flat roof with a white rendered wall to its front, and with brick sides. Although the frontage is landscaped, screening is limited, and the site is largely open to views from the highway. The building is within a residential area, on a small residential road. It has a functional design and thus makes a neutral contribution to the character and appearance of the area.
9. The proposed additional floor of accommodation would be recessed from the front and side elevations of the building. It would follow the pattern of window arrangement below and include a grey zinc cladding cladding system. Although the proposed cladding would contrast with the existing materials its use would add interest to the building and suit the chosen form of the proposal. As such, the proposal would represent a considered and balanced addition to the building that would complement its design when considered by itself.
10. The site is within a residential area that consists of two-storey housing and three-storey flatted development of a wide variety of styles. Nevertheless, local building heights are relatively uniform. The majority of the local blocks of flats have a recessed and subservient second floor level within a roof space. Also, the three storey town houses opposite the site include an eaves line at two-storey level and include a recessed second floor within its roof-space. Therefore, whilst these may be marginally taller than the appeal building, most taller buildings within the local area integrate well with its prevailing two-storey character and create a coherent and coordinated pattern of development.
11. In consideration of the wider context, the proposed development would extend the host building with a significant roof addition. Views of the sides and rear of the block would be evident from the street and several neighbouring access

routes found on adjacent sites. The proposed increase in height would therefore increase the dominance of the building within this relatively prominent and exposed site. The scale of the proposed scheme, notwithstanding the recessed nature of the proposed third floor, would result in a form of development that would be anomalous within the local streetscape. As such, unlike the appeal decisions¹ submitted by the Appellant, I have found that the proposal would appear unacceptably conspicuous and imposing within the streetscene.

12. Consequently, the additional bulk would contrast sharply with the predominant pattern of building heights within the wider area and jar with local development. Therefore, whilst I have found that the proposed addition would in itself respect the existing building, its wider harmful impact would outweigh this merit. Furthermore, although the design of the Avenue Court, Cricklewood scheme appears similar in design terms, it is in a materially different context, including standing within a more open corner plot.
13. The Framework seeks to boost the supply of housing. It encourages making effective use of land and supports the use of airspace above existing residential premises for new homes. Nevertheless, the proposed upward extension would conflict with its requirement for development to be consistent with the prevailing height and form of neighbouring properties and the overall streetscene. Accordingly, the proposed addition would have an adverse impact on the character and appearance of the wider streetscene.
14. Insofar as it is a material consideration, I have also had regard to policy CS5 of the Barnet Core Strategy, policy DM01 of Barnet's Development Management Plan Document and the Council's Residential Design guide. These policies seek, among other matters, for development to respect the local context.
15. Accordingly, the proposal would not comply with paragraph A.2(e) of the GPDO.

Conclusion

16. As such, for the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR

¹ Planning Appeal Reference: APP/N5090/W/21/3283645 and APP/Z5630/W/21/3282035