



Appeal Decision

Site visit made on 20 September 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 OCTOBER 2022

Appeal Ref: APP/Z3635/W/21/3288533

Elizabeth House, 56-60 London Road, STAINES-UPON-THAMES, TW18 4HB

- 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 AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 - The appeal is made by Circle Property Plc against the decision of Spelthorne Borough Council.
 - The application Ref 21/01205/PCO, dated 15 July 2021, was refused by notice dated 14 September 2021.
 - The development proposed is described as "Prior approval notification for 2 additional storeys above the existing office building, comprising 12 residential units as shown on drawings numbered 1100, 1200B, 1201B, 1202A 1203, 1221A, 1222A, 1223A, 1224A, 1225, 1300A and 1320A received on 22 July 2021 and amended plan number 1220B received on 7 September 2021."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GDPO) permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building.
3. For development to be permitted it must satisfy the limitations set out at paragraph AA.1 and the conditions at AA.2. Compliance with the limitations at AA.1 is not an issue in dispute between the Council and the appellant and I do not have evidence that leads me to take a contrary view.
4. The conditions at AA.2 require developers to apply to the local planning authority for their prior approval in relation to a number of specified matters. Having assessed the application, the Council is content that the development is acceptable in all of these respects other than that relating to the external appearance of the building.
5. Paragraph B of Part 20 sets out the procedure for prior approvals and requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework (the Framework). I have considered the appeal on the same basis.

6. Policy EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009 (DPD) is referenced in the Council's reason for refusal. For the avoidance of doubt, I have not decided this appeal on the basis of the duty in s38(6) of the Planning and Compulsory Purchase Act 2004. I have noted the policy, but only insofar as it may generally assist with forming the planning judgment required in relation to the application for prior approval.
7. Since the submission of the planning appeal, the High Court judgement has been handed down in 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 main parties have commented on that judgement in their submissions, and I have determined the appeal accordingly.
8. I have used the description of development taken from the Council's decision notice and appellant's appeal form.

Main Issue

9. The main issue is therefore whether the proposal would harm the character and appearance of the building and the wider area, with particular regard to London Road.

Reasons

10. The appeal site comprises a three-storey red brick office building, with car parking. The building is T-shaped, with the wider part of the building fronting London Road and the narrower part of the building running into the main body of the site. Along its frontage the building is flanked on either side by office type buildings of broadly similar heights albeit with differing external appearances. On the opposite side of the road buildings are generally two storeys in height. Brick is the predominant finished material on buildings along this part of London Road.
11. The existing building, whilst not prominent within the London Road Street scene, offers a coherent and generally uniform design and appearance, that sits well amongst the buildings either side and opposite.
12. The proposed additional storeys would be set in from the sides and front of the frontage part of the building. They would also be set in from the very rear of the building. The proposal would result in a building taller than those immediately around it, which would increase the building's visibility and prominence. The proposed additional storeys would be finished in a metal grey cladding whose appearance and vertical seams would jar awkwardly with the red brick and horizontal emphasis of the existing fenestration pattern of the building.
13. Having additional set back storeys in a contrasting, often darker material, can be an acceptable method of achieving additional height to a building. However, the current proposal would appear top-heavy and give the appearance of the new storeys having been placed on top of the building's roof, with little reference or relationship to the floors below.
14. There does not appear to be any particular design rationale which explains the design approach or choice of external materials, beyond seeking to introduce a different, darker material to the existing building and to avoid altering the existing façade. Whilst variety and difference does not necessarily lead to

harm, in this particular instance the proposed new storeys would appear manifestly at odds with the form and appearance of the existing building. This creates an awkward juxtaposition which is accentuated by the proposal being two storeys.

15. Overall, I do not find that the proposal would complement the existing building. Instead, it would have an unacceptable and harmful effect on the external appearance of the building itself. The recent High Court judgement has established that the effects on the external appearance of a building are capable of being assessed in a broader context. I therefore also find that the external appearance, when taken in combination with the building's additional height, would then also harm the London Road Street scene and thus the appearance of the wider area.
16. For these reasons, I conclude on this main issue that the external appearance of the building would not be acceptable.
17. Whilst not determinative, I have had regard to Policy EN1 of the DPD which, amongst other things, seeks to ensure new development is of a high standard of design that creates attractive places that make a positive contribution to the area.

Other Matters

18. I have considered the option of a condition to secure details of different materials and finishes. However, given my findings, such a condition would require the submission of details different from the scheme as submitted and it is not clear at this stage whether there is a suitable alternative option would overcome my concerns. Such a condition could also obviate the required consultation and notification requirements relating to the details and could prejudice interested parties who may wish to comment. I therefore do not consider a condition to be appropriate in this case.
19. The Framework supports upward extensions, and this reflects the objective of significantly boosting the supply of homes. However, the Framework caveats this by stating that such development should be, amongst other things, well designed and respect the street scene. For the reasons I have set out, the development would not accord with the Framework in this respect.

Conclusion

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

Stewart Glassar

INSPECTOR