
Appeal Decision

Site visit made on 4 October 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/D1590/W/21/3283126

19-24 The Plaza, Royal Mews, Southend on Sea SS1 1GL

- 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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Norman Powell against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/00321/NDDBF, dated 1 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is application for prior approval to erect one storey extension to form a fifth floor comprising of two self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under 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), planning permission is granted for enlargement of a building which is a purpose-built, detached block of flats by construction of up to two additional storeys subject to limitations and conditions.
3. Where an application is made for enlargement of a flat development by construction of additional storeys prior approval is required for development within Class A. Such development is allowed by paragraph A provided it complies with those conditions set out under A.2. The local planning authority is required to assess the impact of the proposed development on the external appearance of the building, amongst other matters set out under A.2, taking into account any representations received.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the prior approval application was determined by the Council. I have had regard to the revised Framework.

Main Issues

5. I consider that the main issues in this appeal are whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 20, Class A of the GPDO and the impact that the external appearance of

the additional storey would have upon the external appearance of the building and the locality.

Reasons

6. Paragraph B.15(b) of Part 20 of the GPDO indicates that regard can be had to the Framework in so far as relevant to the subject matter of the prior approval, as if the application were a planning application. The Framework emphasises the importance of good design with development being visually attractive as a result of good design. In so far as they relate to the external appearance, Policies KP2 and CP4 of the Core Strategy, Policies DM1, DM3 and DM5 of the Development Management Document, Policy PA6 of the Central Area Action Plan and the Design and Townscape Guide reflect the Framework in requiring good quality design.
7. The existing block is four storeys and has a mono-pitched roof to the top floor. The flatted development is of modern design and features timber cladding and a variety of projecting elements. The proposed additional storey would have a flat roof with sloped corners incorporating projecting features within its north and south elevations. It, along with the floor below, would be clad with cream panels.
8. The proposed development would add considerable bulk to the top of the building. The mansard style design of the roof together with projections would give the building an awkward top-heavy appearance. On three sides the cladding over two storeys would emphasise this top-heavy appearance. Visually the top addition would not assimilate comfortably with the design and form of the existing flatted development. As such, the overall size, design and materials of the additional storey would have a detrimental visual impact upon the existing host flatted development. It would not represent good design or create an overall well designed building. Indeed, some of those making representation express concern as to the aesthetics of the proposal development.
9. The Council has raised concern relating to the development's wider visual impact within the locality, noting the site is situated adjacent Clifftown conservation area. The judge at a recent High Court judgement (CAB Housing Ltd, Beis Noeh Ltd and Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)) upheld that a broader interpretation of the GPDO AA.2(3)(a)(ii)(aa) of Part 1 relating to 'external appearance' of the dwellinghouse was not limited to the principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations. In essence, the considerations pertaining to external appearance could embrace the visual impact of the proposal on premises other than the subject dwelling or building, including neighbouring premises and the locality. The judge made it clear that his judgement affected the way that other Classes and Part 20 are understood with regard to extending the consideration of external appearance to the wider locality.
10. The host building as designed currently contrasts with other more traditional properties in the area, including those within the adjoining conservation area, however there are modern developments close by. The buildings in the area vary in height and the resulting height by adding an additional storey would reflect the height of some of the other traditional and modern buildings within its vicinity. Nonetheless, I have found that the proposal would not represent a

well-designed building. The increased height of the building and its negative appearance would be clearly visible in various vistas from the surrounding area, including those to and from the conservation area. The development would be visually harmful within the wider locality and, given the height of the resulting development, would be a noticeably visually harmful feature.

11. I have been referred to an additional storey constructed at 7-9 Clifton Terrace. From the information provided by the Council that building has been subject to an upgrade, which I was able to see at my site visit. An additional storey has been added to the top of the building, however that storey is stepped in from the building frontage and is constructed largely of glass. That top storey addition has a lightweight appearance and is of very different design to that which is before me, therefore the considerations relating to that development will have been different. This example offers little weight in support of the proposal.
12. There is also a tall modern development north and close to the appeal site. Furthermore, I observed other modern developments in the wider area. However, overall, I saw that the top storeys were generally recessed and stepped in from the elevations of the building below, including that of the building to the north. It is also suggested that the proposed mansard-like roof design is a reinterpretation of the traditional mansard of the building to the south however, that roof is rather squat and recessed behind a surrounding parapet. None of the examples that I have been directed to are directly comparable to the proposal before me and, therefore, offer little weight in support of the proposed development.
13. It is pointed out that the existing mono-pitch roof is not a common feature of the area and is suggested to be of a dated design. Whilst this may be so this does not justify a different roof form that would be visually harmful in its own right.
14. It has been suggested that different weight could be applied to different sections under Part 20. However, the whole of Part 20 is relevant to this prior approval and I consider that all sections hold equal weight.
15. The additional storey would be visually harmful to both the external appearance of the building and the locality. This brings the proposal into conflict with the GPDO. Consequently, the development is not permitted by Article 3(1), Schedule 2, Part 20, Class A of the 2015 Order and, therefore, the prior approval application should be refused.

Other Matters

16. The site falls within the Zone of Influence of one or more European designated sites. Article 3(1) of the GDPO grants planning permission for the class of development described as permitted development in Schedule 2 subject to regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017. As such, Article 3(1) effectively imposes a pre-commencement condition on all developer that is permitted by the GPDO that would affect a European protected habitat. Permitted development cannot be lawfully begun until the development has made a Regulation 77 application and the local planning authority is satisfied that the development would have no adverse effect on the integrity of the habitat. However, given my above findings in respect of Part 20 it has not been necessary for me to pursue this matter further.

Conclusion

17. For these reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR