



Appeal Decision

Site visit made on 6 December 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/Z5060/W/22/3295555

Ashdown Court, 4 Harts Lane, Barking IG11 8LE

- 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 Mr C Gluck against the decision of the Council of the London Borough of Barking and Dagenham.
- The application Ref 21/02071/PRIFLAT, dated 15 November 2021, was refused by notice dated 21 December 2021.
- The development proposed is 'Prior notification application for the construction of new dwellinghouses on detached blocks of flats. The proposed development involves the construction of one additional storey on top of the detached block of flats to create 7 new units'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Another appeal¹ for this site is also before me. For the avoidance of doubt and in the absence of an appropriate mechanism to bring both developments forward as effectively a single project, I have considered each appeal as a separate proposal.
3. The application form contained a detailed description of development which assessed the effects of the development on the building. The Council's decision notice used a more concise description of the works which was also used on the appellant's appeal form. I have therefore used the more concise description.
4. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). This 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, as well as certain associated works.
5. For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions establish a requirement for developers to apply to the local planning authority for a determination as to whether prior approval will be required in relation to a number of specified matters. In determining such an application, paragraph B(15) requires the local planning authority to take into account any

¹ Appeal Ref: APP/Z5060/W/22/3295554

representations made to them as a result of consultation, and to have regard to the Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.

6. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan referred to by the main parties insofar as they are material to the matters for which prior approval is sought.
7. The Council was satisfied that the proposal met the limitations set out in paragraph A.1 and would be permitted development. I have no reason to come to a different conclusion.

Main Issue

8. The main issue is whether or not prior approval should be granted having regard to the external appearance of the building.

Reasons

9. Ashdown Court is a part four/ part three storey block of flats. The central section of the building, which is the subject of this appeal, forms an L shape and is the four storey section of the building. To each side of this are two 'wings' which form the three storey parts of the building. The central section is finished in predominantly red brick, with small areas of white render. Interest is provided to the Harts Lane elevation through the use of oriel windows on the first and second floor in the centre of the block, with a small gable feature to the roof.
10. The significant change to the building would be from the increased height of the central section, which would result in the central section of the building appearing two storeys higher than the three storey wings. This would give the central section of the building an unduly dominant appearance. It would no longer appear as a well-proportioned, cohesive building and as such the proposal would be detrimental to the external appearance of the building.
11. The appeal proposal would repeat the fenestration pattern, floor to ceiling height and materials of the existing building. The hipped roof form and gable features would be incorporated into the new development and a symmetrical appearance from Harts Lane would be retained. However, these factors would not be sufficient to mitigate the harmful effect on the external appearance of the building I have identified above.
12. For the reasons above, I consider that the external appearance of the building would not be acceptable and would not meet the objectives of the National Planning Policy Framework which is clear that the creation of high quality and beautiful places is fundamental to what the planning and development process should achieve.
13. The Council's decision notice refers to Core Strategy (CS) adopted July 2010 Policy CP3 and the Borough Wide Development Policies Development Plan Document adopted March 2011 Policy BP11 which seek high quality in architecture and the built environment. The proposal therefore also conflicts with these policies but only insofar as they are material to the matters for which prior approval is sought.

14. However, I find London Plan adopted March 2021 Policies D1 (which sets out requirements for Boroughs to undertake character area assessments and plan for growth when preparing development plans), D4 (which concerns the use of tools for design analysis, design review processes and maintaining design quality through to completion) and D8 (which seeks to ensure a well-designed public realm) to not be directly relevant to the prior approval matters. This is also the case in relation to CS Policy CC2 as this concerns social infrastructure to meet community needs.
15. The Council has also referred to policies within the Draft Local Plan 2037 Second Revised Regulation 19 Consultation Version (Autumn 2021). However, these policies do not provide any additional support beyond the policies of the development plan as they relate to the matters for which prior approval are sought.

Other Matters

16. There is an extant permission to add a single storey to the central section and each of the wings of the building. The appellant has suggested that only the central section of that could be built which would result in a two-storey difference between the central and side sections of the building anyway.
17. However, this would only lead to the harm I have identified above which is causing me to dismiss the appeal. Furthermore, there is nothing firm that the appellant would only build out the central section and thus part implement the permission. For these reasons the fallback position only has very limited weight.
18. The appellant has set out several issues they state are not in contention. However, the majority of these are conditions necessary to meet the requirements of paragraph A.2 of the GPDO, without which the scheme would not be able to proceed. Even if the flats meet the national space standards, as a prior approval application, there is no provision for a planning balance to be undertaken in the consideration of this appeal.

Conclusion

19. I have found that the proposal would cause unacceptable harm to the appearance of the building. It therefore fails to meet the conditions set out in paragraph A.2 of the GPDO. For this reason, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR