



Appeal Decision

Site visit made on 2 December 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/C5690/W/22/3297804

Ayla Apartments, Bromley Hill, Bromley, Greater London BR1 4JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 20 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Adil Adil (AVF Developments) against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/22/125239, dated 26 January 2022, was refused by notice dated 4 April 2022.
 - The development proposed was originally described as 'Proposed construction of 2 additional storeys to existing dwelling. Additional stories will match existing second floor in terms of layout and external appearance of dwelling using materials to match existing. Proposed construction will provide 4 new 2 bedroom dwellings. External appearance of dwelling will be repeated for proposed additional stories. All new proposed windows, doors or Juliet balconies are to match existing in terms of materials and aesthetics.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original description erroneously refers to the existing building as a dwelling, but it is clear that the building is a detached block of flats and I have determined the proposal on this basis.
3. The appellant submitted a revised drawing at appeal stage to address the Council's first reason for refusal. The changes are limited to very minor increases in the size of built-in storage units for flats at the proposed third floor level. Having regard to the *Wheatcroft* principles, I am satisfied these are not material changes to the proposal or that any party would be prejudiced by my taking this drawing into account.

Background and Main Issues

4. Article 3(1) and Schedule 2, Part 20, Class A of the GPDO permit development of new dwellinghouses on detached blocks of flats. Development is permitted subject to the conditions and limitations set out under Paragraphs A.1. and A.2., which include at sub-paragraph A.2.(1) the matters in respect of which the developer must apply to the local planning authority for prior approval.
5. The Council's position is that the proposed flats would fail to accord with the Nationally Described Space Standard (NDSS) and so would not be permitted development pursuant to Article 3(9A). It further argues that the proposal would not be acceptable in respect of the prior approval matter of external appearance under sub-paragraph A.2.(1)(e).

6. The main issues, therefore, are whether or not the proposal would constitute permitted development under Schedule 2, Part 20, Class A of the GPDO, having regard to the proposal's compliance with the NDSS, and if permitted development, whether prior approval should be granted having regard to the effect of the proposal on the external appearance of the building.

Reasons

Whether permitted development

7. The Council's first reason for refusal relates solely to a measured shortfall of 0.4sqm for two built-in storage units for flats at the proposed third floor level. The appellant's amended drawing shows the storage units at the required 2sqm in size. There is no other suggestion from the Council of a shortfall against the relevant standards of the NDSS and I am satisfied that the proposed flats would not conflict with the requirements of Article 3(9A). Consequently, I am satisfied that the proposal would amount to permitted development under Part 20, Class A, subject to the consideration of the relevant prior approval matters, of which the only one at issue is (e) the external appearance of the building.

External appearance

8. The existing building stands three storeys in height, composed primarily in red brick. The upper floor, save for the projecting central stairwell, is recessed from the lower elevations and finished in grey panelling beneath a flat roof. The window openings at first floor level are notably open to inset balconies, with the windows recessed further back.
9. The proposal would add two further storeys to the building. The third floor would extend up on the same setback footprint as the existing top floor, whilst the new top floor at fourth floor level would be further inset and would replicate the grey panelling of the existing top floor. The existing second (top) floor would be re-clad in red brick, as would the proposed third floor. New balconies would be added to either side of the central staircase at both floors. A similar approach would be taken at the rear, and both side elevations would continue to be blank walls above ground floor level.
10. The GPDO does not define external appearance for the purposes of assessing this prior approval matter, but case law¹ has established that consideration of external appearance under the various classes of Part 20 of the GPDO is not confined to an assessment of the impact of that appearance on the building itself, but also includes impact on neighbouring premises and the locality.
11. In this case, the existing building is a recent construction which reflects the prevailing height of surrounding development, a factor which is relevant given the overall streetscape is broad and subject to long views in either direction along Bromley Hill. It is evident that the scale and materials of the existing building were informed by those of the surrounding built form, with the recessed top floor reflecting the reduced massing of the pitched roofs of neighbouring dwellings at this level, and a clear horizontal emphasis reflecting that of the long terraces to either side. The relatively understated design also enables the building to integrate with its surroundings, rather than standing out as a landmark or statement building.

¹ CAB Housing LTD v SSLUHC & LB of Broxbourne; Beis Noeh LTD v SSLUHC & LB of Haringey; Mati. Rotenberg v SSLUHC & LB of Haringey [2022] EWHC 208 (Admin)

12. Due to the addition of two storeys, the building would lose this existing complementary scale and form, replaced by an awkward design with setbacks both at second and fourth floors creating an irregular stepped form. The height of the additional floors would also lead to a disproportionate and overbearing appearance to the elevations, particularly in respect of the windows where larger French doors at third and fourth floor level would sit above narrower doors at second floor level, which in turn would sit above the more squat balcony openings at first floor level.
13. This disjointed appearance would be compounded by the additional storeys introducing a more vertical emphasis to the building that would jar with the existing horizontal emphasis of the lower storeys as expressed through the fenestration and height-to-width ratio of the building. As a result, the building would fail to achieve a coherent composition to its front elevation. The fenestration to the rear would be more proportionate, but this would not mitigate for the harmful external appearance of the building to the front.
14. I accept that the building stands by itself in the street scene and the additional storeys would not interrupt an otherwise unaltered terrace. However, the resulting building would stand significantly taller than its immediate neighbours and would form a highly conspicuous structure that would dominate views in either direction along Bromley Hill. This visibility would exacerbate the harmful external appearance of the building in the street scene, particularly the loss of its existing complementary scale and horizontal emphasis.
15. In reaching a view, I have had regard to an appeal decision in Surbiton referred to by the appellant. Whilst not doubting the Inspector's approach in this case, the decision predates the court judgement referred to above, which confirms that consideration of how external appearance is assessed is a matter of planning judgement, and may include both the effect of the proposal on the external appearance of the building and the consequent effect of this on the wider area. In any event, I note differences between the two schemes in terms of location, form and proposed design. Consequently, this decision has not been decisive to my conclusions, which I have reached on the specific merits of the proposal.
16. For these reasons, I conclude that the proposal would be unacceptable in terms of its external appearance. So far as they are relevant as material considerations, there would be conflict with Paragraphs 126 and 130 of the National Planning Policy Framework, which set out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and require developments to achieve high quality design and to be visually attractive as a result of good architecture.

Conclusion

17. I conclude that the proposal would not be acceptable in respect of the prior approval matter of external appearance under Paragraph A.2.(1)(e) of Part 20, Class A. Therefore, the appeal should be dismissed.

K. Savage INSPECTOR