



Appeal Decision

Site visit made on 28 March 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/Y1945/W/22/3303627

7 Tolpits Lane, Watford WD18 7QG

- 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 Avon Ground Rents Ltd against the decision of Watford Borough Council.
 - The application Ref 21/01779/AAPA, dated 6 December 2021, was refused by notice dated 26 January 2022.
 - The development proposed is addition of one upper floor to provide 2 units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application that was made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Class A 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.
3. 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 prior approval matters. In determining such an application, paragraph B(15) of Part 20 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 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.

Main Issues

4. The main issues are:
 - (i) whether or not prior approval should be granted having regard to the external appearance of the building; and
 - (ii) whether or not the proposal would satisfy the limitation at A.1(n) of Part 20, Class A having regard to the siting of bin storage.

Reasons

External Appearance

5. The appeal site includes a detached three-storey building which is occupied as flats. Other nearby buildings on the closest part of Tolpits Lane are typically lower with heights of up to two-storeys, and are also of much lesser depth and smaller overall bulk than the appeal building. However, the appeal building is of broadly similar width to the closest building at Tolpits Motors adjacent, and while it is clearly taller, its eaves are lower than the roof of this neighbour and the overall difference in height appears fairly modest. These factors moderate the visual impact of its greater height and size, and I find that the building sits comfortably against its neighbours and is relatively unobtrusive in the street scene.
6. The proposed additional storey would be constructed in line with the existing second-floor beneath. The architectural style, features and detailing, external materials and roof form would also reflect the existing building. However, I consider that the building's increased height would appear excessive relative to its width which is considerably more modest, giving the front elevation an undue vertical emphasis. The height gap between the windows of the additional storey and the windows to the second floor would also be larger than the height gap between the first and second floor windows. This would exacerbate the visual impact of the additional height, and I agree with the Council that the building would have an elongated front elevation that would appear incongruous. Furthermore, the development would be of comparable depth to the second-floor, adding considerably to the scale of the upper part of the building and causing it to appear bulky.
7. I note the appellant's argument that the height of enclosure would not be out of proportion with the width of the road to the front of the site and the disused railway which adjoins the appeal site to the south. Even so, I consider that the above factors in combination would significantly and harmfully unbalance the proportions of the building, which would appear top-heavy and somewhat cumbersome as a result. Notwithstanding that it would be of consistent design to the host building, the development would therefore adversely affect the external appearance of the building.
8. In addition, the appeal building has a close visual relationship with its neighbours to the north. Given these relationships, I consider that the external appearance of the development could not in this case reasonably be considered in isolation from its surroundings.
9. I appreciate that buildings beyond the railway are of varied form, scale and appearance. There are also views along the railway towards large footprint commercial buildings located to the rear of the site, and of buildings of more than 10 storeys in height at the Laundry Works site to the rear of dwellings on the opposite side of Tolpits Lane. This adds some diversity to the scale of development in the wider street scene, and I acknowledge examples of adjacent buildings with height differences of one or more storeys within the surrounding area. Nevertheless, while I therefore consider that the four-storey height of the building would not in itself be significantly at odds with the wider locality, the taller buildings that I observed were typically wider than the appeal building which helps to balance visually their greater height.

10. For the reasons above, the development before me would lack such balance. Given its set back position relative to the closest neighbouring building, views of the development from the north would be partly screened. However, it would be readily apparent from Tolpits Lane to the front of the site and from the south. In these views, the further increase in the height and bulk of the building relative to its nearest neighbours against which it would be most closely seen would serve to underline the unsympathetic proportions of the resulting development. Irrespective of the variety in the scale and height of development in the wider area, I find that the appeal building would be prominent and jarring against its surroundings.
11. My attention has been drawn to outline planning permission for development on the adjacent site at Tolpits Motors which would reduce the height difference between the appeal building and its closest neighbour if implemented. However, it is unclear from the information before me whether the permission remains extant. In any event, the details that have been provided show that the permitted buildings would be wider than the appeal building, with a maximum of three-storeys of accommodation, and with roofs that would slope upwards away from the sides of the buildings. In my assessment, they would appear better proportioned in the street scene, and the grant of permission on the adjacent site does not alter my findings that the current proposal would adversely affect the external appearance of the appeal building in itself.
12. The appellant comments that the principle of an extension above the existing building has been established by virtue of the permission granted under the GPDO. They assert that acceptance of the height and scale of a proposal falling within the parameters of the permitted development right is implicit, and does not require further assessment in considering the prior approval matter of external appearance. Nevertheless, the permitted development right is contingent on the grant of prior approval. In considering the prior approval matter of external appearance, the appellant has referred to definitions of 'appearance' within the National Design Guide and in the Development Management Procedure Order 2015 (as amended). However, these definitions are not directly applicable to Part 20 Class A which does not distinguish external appearance from scale, nor exclude consideration of elements of scale such as height. To my mind, height may well be a factor that would affect the visual impression and external appearance of a building and that would need to be considered having regard to the particular circumstances of a proposal, and requiring a judgement to be made. That is what I have done here.
13. I appreciate that the permitted development right under Class A forms part of the Government's Covid-19 economic renewal package by enabling new homes to be delivered more easily, and that permitted development rights including under Class A were introduced to support Government priorities and national policy to boost housing delivery and increase densities by making effective use of buildings. The National Planning Policy Framework ('the Framework') also includes an objective to significantly boost the supply of housing, and encourages upward extensions of premises for housing. However, the Framework qualifies this by indicating that such extensions should be well-designed and consistent with the prevailing height and form of neighbouring properties and the overall street scene. For the reasons given above, the proposal would not achieve those aims.

14. I find that the proposal would harm the external appearance of the building. Within the context of the permitted development right at Class A, it would therefore be contrary to the Framework insofar as it seeks good design that improves the character and quality of an area and development that is visually attractive and sympathetic to local character. I therefore conclude that the external appearance of the building would be unacceptable.

Bin Storage

15. The development permitted by Class A includes works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses. However, the limitation at A.1(n) identifies that such development would not be permitted in circumstances including where the development would be situated on land forward of a wall forming the principal elevation of the existing building. The submitted plans illustrate an extension to an existing bin store on the appeal site which is positioned forward of the appeal building, contrary to the limitation at A.1(n). These works would not therefore be permitted development under Class A.
16. Be that as it may, the main parties refer to planning permission which has now been granted under application ref 21/01738/FUL for 'erection of bin store to the front of the property' ('the Permission'). The approved store had not been implemented at the time of my visit. However, the Council's evidence does not explain the basis for its statement that a separate planning permission cannot be tied to a Prior Approval. Indeed, paragraph B(18) of Part 20 of the GPDO provides that prior approval may be granted subject to conditions reasonably related to the subject matter of the approval. Refuse storage is not in itself a prior approval matter, but it seems to me that ensuring adequate provision would in this case be reasonably related to other subject matter of the prior approval, including in relation to impact on the amenity of the existing building and neighbouring premises and transport and highways impacts of the development. In this context and from the information before me, I can see no firm reason that an appropriately worded condition could not in this case reasonably require the bin store approved under the Permission to be completed in order to provide for adequate storage outside of the prior approval development itself.
17. Notwithstanding the illustration of bin storage on the submitted plans which would not be permitted development under Class A, I am therefore satisfied that adequate provision for refuse storage could instead be secured in this case through a condition requiring implementation of the Permission development. On that basis, I conclude that the proposal need not result in conflict with the limitation at A.1(n) of Part 20, Class A having regard to the siting of bin storage.

Conclusion

18. Notwithstanding my findings in relation to bin storage, the external appearance of the building would be unacceptable, and I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR