



Appeal Decision

Site visit made on 25 April 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/N5090/D/22/3311167

270 Sydney Road, London N10 2RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Christos Kouzaris against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/3291/PNU, dated 21 June 2022, was refused by notice dated 26 August 2022.
 - The development proposed is additional storey at second floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the application form. The wording on the appeal form matches that on the Council's decision notice and that description is both concise and accurate. Accordingly, in the banner heading above, I have used the description given on the appeal form and the Council's decision notice.
3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), where the existing dwellinghouse consists of two or more storeys, planning permission is granted for the construction of up to two additional storeys immediately above the topmost storey together with any engineering operations reasonably necessary for the purpose of that construction, subject to limitations and conditions.
4. Paragraph AA.3 provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with or, that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.
5. Conditions at paragraph AA.2 set out that the developer must apply to the local planning authority for prior approval. In respect of prior approval matters, the local planning authority have refused the application in relation to those matters which relate to the external appearance of the dwellinghouse and the impact of the proposal on the amenity of any adjoining premises.

6. In doing so the Council have referred to policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document (September 2012), policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document (September 2012), policy D3 of the London Plan (2021) together with the National Planning Policy Framework (the Framework) and Barnet's Residential Design Guidance Supplementary Planning Document (October 2016).
7. In the determination of an application for prior approval under Part 1, Class AA regard should be had to the Framework so far as is relevant to the subject matter of the prior approval. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, development plan policies may be relevant but, again, only insofar as they relate to the prior approval matters under consideration. I have determined the appeal on this basis.

Main Issues

8. Having regard to the above context, the main issues are:
 - Whether prior approval should be granted under Schedule 2, Part 1, Class AA of the GPDO, having regard to the effects of the development on the external appearance of the dwellinghouse; and
 - Whether prior approval should be granted under Schedule 2, Part 1, Class AA of the GPDO, having regard to the effects of the development on the living conditions of the occupiers of 268 Sydney Road, having particular regard to their gardens.

Reasons

External appearance of the dwellinghouse

9. 270 Sydney Road is located at one end of a short row of terraced properties within a predominantly residential area. The terrace has a uniformity to its appearance as a result of each property being the same housetype and, thereby, sharing the same design characteristics. Neighbouring this terrace are other short rows of very similarly designed terraced properties, albeit some have been extended and altered. Elsewhere in the local area there are groups of flats which also exhibit similar design approaches to one another together with traditionally designed houses. Therefore, whilst the area has a broad range of residential properties, it is appreciable that there are groups of properties exhibiting similar appearances and design detailing, thus creating character areas.
10. Despite the similarities in the appearance of the dwellings, the height of each property within the terraced row and which contains the host property is not the same. The terrace traverses sloping land and steps down in height towards No 270. Though being set on this lower land would ensure that the additional floor proposed would be lower than might otherwise be the case, as a result of the proposal the gradual and consistent manner in which the terrace steps down towards the host property would abruptly end with the formation of a 3 storey property. This added height at this end of the row would harmfully be at odds with the stepped nature of the remainder of the terrace. The additional storey proposed would create a disruptive and anomalous feature, would appear unconventional in this context and, reduce the quality of this part of the

street scene which is partly derived from the consistent appearance of the terrace and its stepped nature.

11. Elements of the detailed design of the extension would be acceptable, sympathetic to the existing elevations of the property and materials are, appropriately, proposed to match existing. However, this would not sufficiently mitigate the harm that would be caused by the increase in height of the property as detailed above.
12. Adjacent to the appeal site and in the surrounding area there are properties of greater height than the host property. To an extent the presence of these properties would assist in assimilating the scale of the development into its location in certain views. It may also be quite commonplace in some site contexts that end terraced properties differ in height to those that they adjoin. However, this does not alter that in other views and in these particular circumstances that the proposal would be harmful for the reasons given above.
13. The local area does contain a mix of property designs. However, in many instances groups and rows of buildings exhibit consistent design features. I have identified that this is the case in the terrace which the host property forms a part of. The appellant has drawn to my attention a number of recent developments which they consider stand out and vary considerably from the style and character of the neighbourhood. I have had regard to the evidence submitted on those developments and took the opportunity to familiarise myself with them during my site visit. Unlike in this case, those developments do not involve the provision of an additional storey atop of a dwelling within a terrace of dwellings of a like appearance. The developments referenced as "A" and "B" comprise of detached building blocks and development "C" is an infill type development comprising of 3 houses of a similar design. Those developments have not resulted in any disruption to the consistent appearance of a terrace of adjoining housetypes as would occur in the appeal proposal.
14. Consequently, the development would represent an unsympathetic enlargement of the host property, which would be harmful to the external appearance of the dwelling and the character and appearance of the area.
15. In coming to this view, I have had regard to the advice within the Framework insofar as it is relevant to the proposal. This includes its advice on making effective use of land and achieving well-designed places. However, the harm that I have identified would not result in a development that would be visually attractive or sympathetic to local character, nor result in a development that would be sufficiently consistent with neighbouring properties and the street scene. Amongst their references to the Framework, the appellant identifies paragraph 190. As this paragraph advises upon plan making in the context of conserving and enhancing the historic environment, I find it is not very relevant to the development proposed. Regardless, the development would not make a positive contribution to local character and distinctiveness.
16. Therefore, the effects of the proposal on the external appearance of the dwellinghouse would be unacceptably harmful.

Living conditions

17. No 268 adjoins the host property and to its rear there is a garden enclosed by fencing. To the front of No 268 and the neighbouring terraced properties, there

are open plan grassed areas crossed by paths, which would appear to serve as front gardens to these properties. Beside these front gardens there is a road with footpaths on either side and on the opposite side of this road further properties set back from the highway. At the rear of the No 268, the back garden abuts the gardens of neighbouring properties.

18. Given these factors both the rear and front gardens of No 268 benefit from a reasonable separation from neighbouring houses and flats in those directions albeit there are the likes of outbuildings which come closer. Nevertheless, given this separation, this limits the extent to which those gardens are currently enclosed by built development. Therefore, the garden spaces of No 268 are currently afforded a quite open aspect.
19. Although in the proposal the host property would increase in height, it would project no farther to the front nor rear. Therefore, despite its increase in size, the host property would extend no further along the boundaries of the garden spaces of No 268 and, in that sense, not enclose the spaces further.
20. Consequently, whilst I accept that the increase in height of the host property that would result from the proposal would be clearly apparent from the garden spaces of No 268, the additional storey would not be unduly overbearing or visually intrusive. With the proposal in situ, the garden spaces serving No 268 would maintain an acceptably open outlook.
21. For these reasons the development would cause no unacceptably harmful effects upon the living conditions of the occupiers of 268 Sydney Road, having particular regard to their gardens.

Other Matters

22. My deliberations are necessarily confined to those matters directly relevant to the prior approval matters for Part 1, Class AA development. Therefore, that the proposed extension may meet the needs of the property occupants and that other benefits may be derived are not determinative factors in my decision.
23. The proposed development would meet several limitations and conditions which apply to Part 1, Class AA development, including for example, that following the development the highest part of the roof of the dwellinghouse would not exceed 18m. However, those limitations and conditions also require the application for approval and, in the first main issue, I have identified the reasons why the development would be harmful.
24. I acknowledge that the host property is not listed, is not located within a conservation area nor the subject of an Article 4 Direction. Furthermore, the site may not be the subject of an enforcement investigation nor has the development commenced. Nevertheless, and for the reasons provided in the first main issue, I have identified harm.
25. I also acknowledge that as a result of the Council's consultation exercises that no letters of objection were received. However, the absence of objections does not in itself render the scheme appropriate nor overcome my concerns. Furthermore, the appellant has highlighted that the Council have not objected to the proposed development on the grounds of its effects upon the living conditions of neighbouring occupiers, aside from the garden spaces of No 268, the subject of the second main issue. I have no reason to disagree with the

Council's findings, however, this lack of harm is neutral in the planning balance and does not outweigh the harm I have identified in respect of the effects of the proposed development upon the external appearance of the dwelling.

26. The appellant has made reference to the age of the development plan and that in their refusal reasons the Council have cited planning policy considerations irrelevant to the prior approval appeal. As previously referenced, as a prior approval appeal, determination is not made on the basis that the development plan must be applied. Despite this, I have outlined in the first main issue why the effects of the development on the external appearance of the dwellinghouse would be harmful.

Conclusion

27. Whilst I have not identified harm in the second main issue, this does not outweigh the harm that would be brought about by the effects of the proposal on the external appearance of the dwellinghouse, as set out in the first main issue. Therefore, I conclude that the appeal is dismissed.

H Jones

INSPECTOR