



Appeal Decision

Site visit made on 1 August 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal Ref: APP/M5450/W/22/3311739

Kajaine House, 57-67 High Street, Edgware, London HA8 7DD

- 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 AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Lanesra Edgware Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2682/22/PRIOR, dated 15 July 2022, was refused by notice dated 9 September 2022.
 - The development proposed is erection of 2 additional storeys accommodating 12 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above has been taken from the application form and is the same as that used in the appeal form and the Council's decision notice. The adjacent building, indicated in documents and on ordnance survey plans in the appeal submissions as either 63-67 or 65-67 High Street, is a Grade II listed building. For the avoidance of doubt, although this address is also included within the banner heading address, the listed building is a distinctively separate building and is not located within the red edge of the appeal site. Therefore, it does not form part of the appeal proposal. I have determined the appeal on that basis.
3. I have taken the description of development from the application form. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.

Procedural Matters

4. Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building in commercial or mixed use. For development to be permitted it must satisfy the limitations set out at paragraph AA.1 and the conditions at AA.2.
5. Compliance with the limitations at AA.1 is not an issue in dispute between the main parties and I do not have evidence that leads me to take a contrary view. The conditions at AA.2 require developers to apply to the local planning authority for their prior approval in relation to a number of specified matters.

The Council refused prior approval only in respect of one matter set out at paragraph AA.2, that is (e), the external appearance of the building. As before, I have no evidence to dispute the Council's conclusions in respect of the other sub-sections of paragraph AA.2.

6. In considering this appeal I have had regard to recent case law¹. Although specifically relating to development under Part 1 Class AA, the judgement indicates that where prior approval is required in relation to the effect of development on the external appearance of a building, it is appropriate to have regard to its effect on the appearance of neighbouring properties and the locality.
7. Paragraph B of Part 20 sets out the procedure for prior approvals and 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 National Planning Policy Framework (the Framework). I have considered the appeal on the same basis.
8. Policies in the Harrow Core Strategy 2012 (HCS), Harrow Development Management Policies 2013 (HDMP) and the London Plan 2021 (LP) are referenced in the Council's reason for refusal. However, the principle of the development is established by the GPDO. 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 insofar as they are material to the matters for which prior approval is sought.

Main Issue

9. The main issue is whether prior approval should be granted having regard to the effect of the proposal on the external appearance of the building.

Reasons

10. Kajaine House is a predominantly three storey flat roof building facing a 4-lane carriageway close to a busy junction on Edgware High Street. The area incorporates a range of retail and commercial buildings of varying heights, designs and materials.
11. The appeal site is located adjacent to 65-67 High Street, a Grade II listed building. Evidence from the list entry and my own observations suggest that the significance of the building is derived from its early timber framed Hall house origins with projecting wings. Even though altered with a shopfront to one wing and the ground floor windows are encased by metal grilles, the building retains an understated historic vernacular form and appearance. It is one of very few remaining examples of historic buildings along this part of High Street, south of the junction with Whitchurch Lane and Station Road and as such, contributes positively to the historic development of the area.
12. The introduction of extensive commercial development around the listed building has considerably compromised the wider setting of this heritage asset. The appeal building, despite being set slightly back from the main elevation of the listed building, detracts from the immediate setting of the listed building

¹ CAB Housing Limited v Secretary of State for Levelling Up Housing and Communities and Broxbourne Borough Council [23 February 2023] EWCA Civ 194

due to its functional appearance, scale and massing in proximity to the designated asset.

13. The proposed design of the additional storeys would match the proportions of the floors beneath it. It would also follow the same building line and similar ratios of window to cladding with horizontal banding that breaks up the mass of the building. The external materials would be contemporary and the tired appearance of the building would be improved. The proposed development would therefore respect the design and architectural features of the elevations and would adequately respect the character and form of the appeal building when viewed in isolation.
14. Nevertheless, the relationship of the building to its context is an important aspect of the building's external appearance. In this case, the context includes the adjacent listed building, which is particularly sensitive to change. Whilst the setting of the listed building is not specifically referred to in the Council's decision notice, both parties have made reference to this matter in the appeal submissions.
15. I am required to give great weight to the conservation of the setting of the listed building as set out at paragraph 199 of the Framework. The Framework also advises that harm to or loss of the significance of a designated heritage asset from its alteration or destruction, or from development within its setting requires clear and convincing justification.
16. The proposed additional storeys would result in the building's height increasing even further above the buildings to each side and to the rear of the site. This significant increase across a substantial width of the building, the lack of a set back from the existing roof edge and the use of dark cladding on the upper floors would cumulatively amplify the overall bulk of the building. It would somewhat loom over the much lower adjacent listed building and appear incongruous in the immediate street scene. Furthermore, the proposal would be overly prominent in views from the junction with Station Road and Whitchurch Lane where surrounding buildings are two or three storey. It would not respond positively to the context and appearance of the immediately surrounding area.
17. Even though the significance of the listed building derives mainly from its individual historical architectural merit as a Hall house and development in the wider area already detracts from its setting, the proposed development would exacerbate the appeal building's conspicuous scale within the setting of the listed building. Due to its increased height and bulk, the proposed development would tower above, and further detract from, the heritage asset by appearing more intrusive than the current situation. Consequently, the proposed development would fail to preserve its setting and further diminish the ability to appreciate its significance. It would therefore cause harm to the significance of the designated heritage asset.
18. Although I find the resultant harm would be 'less than substantial' in this instance, this carries great weight in the terms of the Framework. Under such circumstances, Paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
19. The development would make use of brownfield land in a highly sustainable location. The provision of 12 new homes would be a public benefit in light of

the Government's objective of significantly boosting the supply of homes and meeting local needs. There would be economic benefits during construction and longer term ones through future occupiers' spending, a proportion of which would no doubt support local businesses. However, bearing in mind the scale of the development, these public benefits would be moderate. CIL is mitigation for development and is not therefore a benefit in its favour.

20. As the harm to the designated heritage assets' significance carries considerable importance and weight, taking a balanced judgement, the effect on the appearance of the area and the setting of the listed building is such that the benefits would not be sufficient to outweigh the harm that would be caused.
21. I recognise it is inevitable that development under Part 20, Class AA will result in some change to the character of the appeal property and the wider street scene and my attention has been drawn by the appellant to other tall buildings in the area. I do not have the full details or the planning circumstances leading to their construction. However, I note the 9-storey Elizabeth House on the opposite side of High Street to the appeal site sits at the end of a row of three storey buildings and has a significantly narrower frontage to High Street than the appeal building. I also observed that the other tall buildings to the south of the appeal site referred to by the appellant are clustered together and sit at a lower land level to the appeal site. Furthermore, from the evidence before me, none of the buildings referred to are located adjacent to a listed building. These examples are therefore not directly comparable to the context of the appeal site.
22. Given the degree of separation, intervening buildings and highway infrastructure, the development would not materially affect the significance of the nearby Edgware High Street Conservation Area. However, this does not overcome the identified harm to the appearance of the street scene in the context of the setting of the adjacent listed building.
23. Taking all of the above into account, I find that the proposal would have an unacceptable and harmful effect on the external appearance of the building. Consequently, the development would conflict with the objectives of Chapters 12 and 16 of the Framework which, amongst other things, require developments to add to the overall quality of the area and be sympathetic to local character, including the effect on the significance of a designated heritage asset.
24. Whilst not determinative, insofar as they relate to the development and the prior approval matter, I have had regard to Policy CS1(B) of the Harrow Core Strategy 2012, Policy DM1 of the Harrow Development Management Policies 2013 and Policy D3(11) of the London Plan 2021. I have also had regard to guidance within the Council's Supplementary Planning Document Residential Design Guide 2010. These policies and guidance, amongst other things, seek to ensure that development responds positively to the local context in terms of design and respects and enhances heritage assets.

Other Matters

25. Concerns raised by an interested party regarding land ownership are beyond the scope of this appeal.

Conclusion

26. For the reasons given above, the proposal would harm the external appearance of the building. It would not therefore comply with the requirements of paragraph AA.2(1)(e) of Article 3(1), Schedule 2, Part 20, Class AA of the GPDO.

27. Consequently, the appeal is dismissed.

A Veevers

INSPECTOR