



Appeal Decision

Site visit made on 29 August 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023

Appeal Ref: APP/N5090/W/23/3315243

258 Regents Park Road, London N3 3HN

- 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 Alex Cosgrove against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1342/PNU, dated 17 March 2021, was refused by notice dated 16 November 2022.
 - The development proposed is extension at fifth floor and roof level to provide 3no self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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) ('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. This right is subject to limitations which are specified at paragraph A.1, and conditions which are set out at paragraph A.2. The 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.
4. In determining such an application, the local planning authority are required 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'), 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

5. The main issues are whether or not prior approval should be granted having regard to (i) the external appearance of the building and (ii) transport and highways impacts of the development.

Reasons

External Appearance

6. The appeal building is located on Regents Park Road close to the junction with the A504 Gravel Hill/East End Road. It has five storeys as viewed from the street, but includes an additional lower-ground floor storey at the rear where land levels are lower. The roof of the building is flat, and an undercroft beneath part of the building provides access to a rear parking court.
7. The arrangement of fenestration, the external materials and the flat roof design of the proposed additional storey would be generally consistent with the floors below, and I agree with the Council that it would appear as a continuation of the existing building.
8. However, while I have no firm reason to disagree with the Council that the appeal building would be considered to be detached for the purposes of Schedule 2, Part 20, Class A of the GPDO, it adjoins the neighbouring buildings to either side as part of a terrace. Given the close visual relationship that it has with its neighbours, I consider that the external appearance of the building could not in this case reasonably be considered in isolation from its surroundings.
9. Other buildings in this terrace are generally up to three-storeys in height. At five storeys when viewed from the front, the appeal building is already the tallest in the terrace with the top floor projecting above the height of the neighbour at 250 Regents Park Road and nearly entirely above the height of 260 Regents Park Road to the other side. The proposed additional storey would result in an even more pronounced height difference.
10. The street scene along this part of Regents Park Road is mixed, with buildings of varied form and architectural appearance, including some of significant scale and up to 7 storey height. However, the tallest are typically detached buildings with a degree of spacing provided to the street and adjacent buildings which helps to moderate the visual impact of their greater height and scale against their neighbours. In contrast, terraces in the vicinity of the site comprise mostly two or three storey buildings, and while this is not uniform, height differences between adjacent buildings are for the most part relatively modest.
11. While the development would be set back slightly from the front of the building which is also set back from its neighbours, it would span the whole width of the appeal building up to its boundaries with Nos 250 and 260. Based on my observations at my visit, it would be appreciable from Regents Park Road both close to the site and in longer range views, as well as for some distance on the approach along Gravel Hill. In these views, I consider that the immediate juxtaposition of the development standing nearly two full storeys above its neighbours and other buildings in this terrace would result in an awkward and visually jarring transition that would be striking, causing the development to appear unduly prominent in this part of the street scene. Notwithstanding the wider variety in the area, the development would be a conspicuous and incongruous addition that would dominate the host terrace, and I find that the external appearance of the building would fail to assimilate sympathetically with its surroundings.

12. I note that the development would screen the majority of an existing tall lift overrun to the appeal building. However, this overrun is set well back from the front elevation, and it is of significantly lesser width, depth and overall bulk and mass in comparison to the appeal development. In my assessment, the development would be a much more prominent feature, and would not offer significant overall enhancement to the design or appearance of the building.
13. For these reasons, I find that the development would be contrary to the Framework insofar as it broadly seeks well-designed places and development and requires, amongst other things, development that is visually attractive and sympathetic to local character. I conclude that the external appearance of the building would be unacceptable.
14. The Council's reason for refusal cites Policy D3 of the London Plan 2021, Policies CS1 and CS5 of the Core Strategy 2012 ('the CS') and Policy DM01 of the Development Management Policies Development Plan Document 2012 ('the DMP'). The prior approval provisions do not require regard to be had to the development plan. Insofar as they are material to the prior approval matter though, the proposal would be contrary to requirements within these policies broadly seeking high-quality design; development that respects and responds positively to local context and character including with regard to the appearance, scale, mass and height of surrounding buildings. It would also be contrary to objectives in the Residential Design Guidance Supplementary Planning Document ('SPD') 2016 seeking good design that is appropriate to its context. This further supports my conclusion that the external appearance of the development would be unacceptable.

Transport and Highways

15. Having regard to parking standards within Policy DM17 of the DMP and the accessibility of the site, the Council indicates that it would generally seek provision of 2 parking spaces to serve the additional flats proposed. No additional parking would be provided as part of the development.
16. Streets in the vicinity of the appeal site are subject to parking restrictions including a Controlled Parking Zone ('CPZ'). At the time of my visit, there were relatively few available on-street parking spaces close to the site. I appreciate that this is only a snapshot, but I have not been provided with substantive evidence to suggest that there would be sufficient on street capacity to accommodate parking from the development contrary to my observations. Where there is insufficient capacity on street within a CPZ, Policy DM17 of the DMP indicates that a legal agreement will be required to restrict future occupiers of development from obtaining on street parking permits. From the information before me, I consider that it would be necessary to restrict the ability of future occupiers to on-street parking permits in order to ensure that pressure for parking is not increased by the development leading to additional vehicle movements and manoeuvres to the detriment of highway safety and convenience.
17. The appellant's appeal statement suggests that a Unilateral Undertaking ('UU') has been prepared to ensure that future residents would not have the ability to obtain a parking permit, but no UU was submitted as part of the appeal. Despite allowing the appellant an extension beyond the deadline outlined in the Procedural Guide: Planning appeals – England to submit an obligation, there is no signed and completed legal agreement before me.

18. In the absence of a suitable mechanism as part of the appeal to ensure that the development would not lead to additional demand for on-street parking, I find that there would be unacceptable harm to highway safety and convenience. This would be contrary to the Framework insofar as it seeks to avoid unacceptable impacts on highway safety, and I conclude that the transport and highways impacts of the development would accordingly be unacceptable.
19. To the extent that they are material to the prior approval matter, the proposal would also be contrary to requirements within Policies CS9 and CS15 of the CS and Policy DM17 of the DMP broadly seeking safe, effective and efficient travel, appropriate provision for parking and use of legal agreements to mitigate the impact of development.

Other Matters

20. The proposal would make effective use of the site which is in a relatively accessible location, adding 3 dwellings to the supply of housing locally. In these respects, it would be consistent with objectives in the Framework and in the development plan. However, the ensuing benefits of the proposal do not alter my conclusions that the external appearance of the building and the transport and highways impacts of the development would be unacceptable.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed and prior approval should be refused.

J Bowyer

INSPECTOR