



Appeal Decision

Site visit made on 12 December 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2024

Appeal Ref: APP/V1505/W/23/3318714

Riverside House, Lower Southend Road, Wickford, Essex SS11 8BB

- 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 AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by London and County Investments Ltd against the decision of Basildon Borough Council.
- The application Ref 22/01492/PANT, dated 13 October 2022, was refused by notice dated 9 December 2022.
- The development proposed is prior approval to provide new self-contained flats on top of the terraced commercial building (Block 3).

Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for new self-contained flats on top of the terraced commercial building (Block 3) at Riverside House, Lower Southend Road, Wickford, Essex SS11 8BB in accordance with the application 22/01492/PANT made on 13 October 2022 and the details submitted with it, including Drawing Nos. 001: Site Location Plan; 002: Existing Site Plan; 003: Existing Ground Floor Plan; 004: Existing First Floor Plan; 005: Existing Second Floor Plan; 006: Existing Third Floor Plan; 007: Existing Roof Plan; 200: Existing Front and Rear Elevations; 201: Existing Side Elevation; 202: Proposed Front and Rear Elevations; 203: Proposed Side Elevation; 100: Proposed Site Plan; 101: Proposed Ground Floor Plan; 102: Proposed First Floor Plan; 103: Proposed Second Floor Plan; 104: Proposed Third Floor Plan; 105: Proposed Fourth Floor Plan; and, 106: Proposed Roof Plan.
2. This approval is also subject to the standard conditions set out at paragraph AB.2 of Part 20 of the GPDO and the additional conditions set out in the attached Schedule.

Preliminary Matters

3. Article 3(1) and Schedule 2, Part 20, Class AB of the GPDO permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a terrace building in commercial or mixed use. Development is permitted under Class AB subject to the limitations set out in paragraph AB.1 and the conditions set out in paragraph AB.2, which require the developer before beginning the development to apply to the local planning authority for prior approval in

relation to a number of matters. The Council is content that the proposed development would meet all of the matters, other than that relating to the external appearance of the building. Based on the evidence before me, I have no reason to reach a contrary conclusion to the Council in relation to the other matters.

4. In refusing the application, the Council cites Saved Policy BAS BE12 of the Basildon District Local Plan Saved Policies September 2007, the Essex Design Guide, the National Planning Policy Framework (the Framework) and the National Model Design Code. The prior approval provisions do not require regard to be had to the development plan, the Framework or other guidance/documents. I have had regard to the development plan, Framework and other guidance/documents only insofar as they are material to matters relating to external appearance.
5. Since the Council issued its decision notice, the Framework has been revised, with the latest version published on 19 December and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.

Main Issue

6. The main issue is whether prior approval should be granted, having regard to the external appearance of the building.

Reasons

7. This appeal relates to a 3 storey mid terrace property, which comprises of office space. The appeal property forms part of Riverside House, which is a 3 storey terrace, that consists of a number of blocks. Riverside House gradually increases in height away from the corner with Stilemans. The highest part of Riverside House has accommodation in the roofspace, which is served by dormer windows. Riverside House adjoins Riverside Court, which consists of 3 and 4 storey elements. As Riverside House and Riverside Court are adjoining properties, they are viewed in the street scene as one terrace, which does not have a consistent roof height.
8. The architecture in the locality is typically modern in character and comprises of a variety of architectural styles. The heights of buildings in the area also vary considerably, ranging from 1 to 7 storeys.
9. The proposal seeks to provide an additional storey on Block 3, which would provide 3 nos. 1 bedroom flats on the third floor and a 2 bedroom flat within the raised loft space. The principle of constructing up to an additional two storeys of dwellinghouses above the topmost storey of a terrace building in commercial or mixed use is established by the GPDO. The appellant advises that the proposed roof height would be 2.81 metres higher than the highest part of the existing roof of Block 3 and 2.29 metres higher than the highest part of Riverside House. The Council confirms that the appeal property would not exceed the height of the adjoining property at Riverside Court.
10. While the proposal would be taller than the adjacent parts of the terrace, it would not be significantly so. The height of the proposed development would be consistent with the height of Riverside Court. The proposal would also be

lower in height than the 7 storey apartment building, which is located on the opposite side of the road. The proposal would not appear unduly prominent in the locality where taller and bulkier buildings form part of the character of the area. As a result, the proposed upward extension would respect the prevailing height and form of neighbouring properties and the character and appearance of the area.

11. The proposal replicates the design of the existing building. The new floor would be constructed in line with the floors below. The external materials would also match those used on the existing building. The proposed half hipped roofs would harmonise with the existing terrace, where hipped roofs are present. Consequently, the proposal would assimilate well with the host building.
12. Dormer windows are present on the adjacent blocks. Smaller dormer windows have already been permitted on Block 3; however, these have not been implemented. Although the proposed dormers would be wider than the existing dormers on the terrace or that previously approved, they would still appear modest in relation to the size of the roof and enable a large proportion of the roof slope to remain visible. The size and spacing of the dormers reflect the size and spacing of the existing 2 pane windows on the lower part of the building. Consequently, the proposed dormers would not appear unduly prominent on the roof slope and would preserve the character and appearance of the host building and the area.
13. For the reasons given above, I conclude that the external appearance of the proposed development would assimilate appropriately with the host building and would be sympathetic to the local character of the area. As a result, I find that the details relating to the external appearance of the building are acceptable. The proposal therefore complies with condition AB.2.(1)(e) of Schedule 2, Part 20, Class AB of the GPDO.

Other Matters

14. The appeal site falls within the Zone of Influence for a number of European designated sites on the Essex Coast. The Council considers that the appeal proposal, in combination with other residential development within the Zone of Influence is likely to have a significant effect on these designated sites. In order to mitigate the impact of increased recreational pressure on European designated sites, the Council advise that a financial contribution is required in accordance with the Essex Coast Recreational Avoidance and Mitigation Strategy.
15. Article 3(1) of the GPDO grants planning permission for Schedule 2, Part 20 Class AB development subject to Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). Effectively, Article 3(1) provides a pre-commencement condition on all development that is permitted by the GPDO and is likely to have a significant effect on a European site. The proposed development cannot commence until the developer has received written approval from the local planning authority under Regulation 77. As a result, I am satisfied that this matter can be dealt with as part of any future Regulation 77 application.
16. The appeal site is accessible to local shops, services and public transport links. Consequently, future residents would not be dependent on a private motor vehicle to meet their day to day needs. While I note the Town Council's

comments in relation to parking provision, I find no reason to disagree with the local highway authority and Borough Council on this matter and consider the transport and highway impacts of the development would be acceptable.

Conditions

17. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class AB of the GPDO is subject to conditions set out in paragraph AB.2 of that Class. The conditions require completion of the development within 3 years, the submission of a report for the management of the construction of the development before development is commenced and notifying the local planning authority of the completion of the development as soon as reasonably practicable after completion.
18. The conditions also require that each new dwellinghouse remains as a dwellinghouse within the meaning of Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended). Furthermore, the conditions restrict windows in any wall or roof slope forming a side elevation of the building.
19. Paragraph B (17) of Schedule 2, Part 20 of the GPDO requires development to be carried out in accordance with the approved details. As a result, a plans condition is unnecessary. As details of external materials are specified on the plans, an external materials condition is not required.
20. Paragraph B (18) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. In order to mitigate the impact of noise from commercial premises on future occupants of the development, a condition relating to noise mitigation is required. A condition securing the implementation of the flood warning and evacuation plan which is detailed within the Phase 1 Flood Risk Assessment is also required, in order to mitigate the impact of flood risk on future residents.

Conclusion

21. For the reasons given above, the appeal should be allowed and prior approval should be granted.

A James

INSPECTOR

Schedule of additional conditions

- 1) Prior to the first occupation of the development hereby approved, details of noise mitigation measures, including the proposed mechanical ventilation system shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, prior to the first occupation of the unit in which it relates and thereafter retained.
- 2) Prior to the first occupation of the development hereby approved, the Flood Warning and Evacuation Plan detailed in the Phase 1 Flood Risk Assessment dated August 2018 shall be implemented in full and retained for the lifetime of the development.