



Appeal Decision

Site visit made on 20 February 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/N5090/W/23/3320006

Anthony House, 61 Station Road, New Barnet, Barnet EN5 1PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 George Logan of Yamatron Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 22/4927/PNV.
 - The development proposed is described as “a single storey upward extension to form one x 2-bedroom apartment with associated private amenity space (terrace). The top storey has been recessed back from the front elevation in order to minimise perceived impact of its presence on from the public realm. The building is to be clad in fibre cement panels of a tone that complements the tone of brickwork to the existing building.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this prior approval application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
3. 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 GPDO) permit 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.
4. Development is permitted by Class A subject to the limitations set out in paragraph A.1 and the conditions set out at paragraph A.2, which include matters in respect of which the developer must apply to the local planning authority for approval. The Council refused the prior approval on the basis that it does not meet the conditions in paragraphs A.2(1)(e) and A.2(1)(j).
5. The appellant has referenced a number of paragraphs within the Framework which they contend the appeal scheme complies with. However, the appeal has

been made under the terms of the GPDO and paragraph B.(15)(b) requires prior approval applications under Part 20 to be determined with regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In this appeal, these subject matters relate to the external appearance of the building and the fire safety impacts on the intended occupants of the building.

Main Issues

6. The main issues are:

- the effect of the proposed development on the external appearance of the building, and
- the fire safety impacts of the proposed development on the intended occupants of the building.

Reasons

External appearance

7. There are a mix of building heights along Station Road, which mainly range between two and five storeys. The appeal building, No 61, is a four storey building. It is located between Servas Court, a building of a similar height to No 61, and Chiltern Court, which is three storeys. There are five storey buildings located broadly opposite the appeal site.
8. The proposed development seeks to increase the height of No 61 through the erection of an additional storey. Although the additional storey would be recessed back away from the main frontage of the building, it would extend almost the full width of No 61. The increase in height would also increase the buildings scale and bulk.
9. While noting the recessed frontage is an attempt to reduce the impact of the appeal scheme, the proposal would, nevertheless, result in a building that would appear overly tall and dominant. The increased height would be further exacerbated due to No 61's proximity to Servas Court and Chiltern Court. As such, the appeal scheme would result in an imposing and incongruous form of development, at odds with, and detrimental to, the host building and prevailing character of the area.
10. While there are five storey buildings in the area, these are separated from the appeal site and, as such, do not share the same relationship with No 61 as its immediate neighbours, namely Servas Court and Chiltern Court.
11. For these reasons, the proposed development would harm the external appearance of the building. So far as is relevant to this subject matter, the proposal would be contrary to the Framework, specifically paragraph 135 which requires developments to be sympathetic to local character. As such, the proposal would fail to satisfy condition A.2 (1)(e) of the GPDO.

Fire safety

12. Where the development meets the fire risk condition, condition A.2(1)(j) requires the developer to apply to the local planning authority for prior approval of the authority as to the fire safety impacts on the intended occupants of the building.

13. Paragraph C.(3) states that development meets the fire risk condition if the development relates to a building which will contain two or more dwellinghouses and satisfy the height condition in paragraph (3), read with paragraph (7) of the Town and Country Planning (Development Management Procedure)(England) Order 2015 (as amended). The height condition stipulated in paragraph (3) is that the building is 18 metres or more in height, or the building contains seven or more storeys.
14. The application form confirms that the existing building is under 18 metres in height and the proposed development would not result in a building 18 metres or more in height, or seven or more stories. As such, the appeal building does not meet the height condition, as required by condition A.2(1)(j).
15. Therefore, whilst the appellant has suggested fire safety matters could be dealt with by way of a condition, there is no requirement to assess the fire safety impacts on the intended occupants of the building in respect of the development proposed. For these reasons, the proposed development satisfies condition A.2(1)(j) of the GPDO.

Other Matters

16. Similar developments have been drawn to my attention. However, the evidence suggests the circumstances and location contexts were different. One development, although located on Station Road, sought to provide an additional third and fourth storey, which is a lower number of storeys than that sought by the appeal scheme. Another development is located in a different area and, as such, is viewed in a different context than the appeal scheme. Consequently, on the evidence before me, these decisions are not directly comparable. In any case, I have determined this appeal on its own merits.
17. Pre-application discussions were undertaken, in which the appellant contends that they had achieved a degree of agreement from the Council. In determining the appeal, I am required to have regard to the planning merits of the proposal, and this is therefore a matter between the appellant and the Council.

Conclusion

18. While I have found that the proposed development would satisfy condition A.2(1)(j) of the GPDO in respect of fire safety impacts, I have concluded that the proposed development would cause unacceptable harm to the external appearance of the building, which would fail to comply with condition A.2(1)(e) of the GPDO.
19. For the above reasons, and taking account of all other matters raised, I conclude that the appeal is dismissed.

S Pearce

INSPECTOR