



Appeal Decision

Site visit made on 10 December 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2024

Appeal Ref: APP/N5090/W/24/3347545

199A Mays Lane, Underhill, Barnet EN5 2DY

- 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 AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Hiren Satra against the decision of Barnet London Borough Council.
 - The application Ref is 24/0931/PNV.
 - The development proposed is two storey extension with a pitched roof to include 1 x 2 bedroom flat.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hiren Satra against Barnet London Borough Council. The application for costs is the subject of a separate decision.

Background and Main Issue

3. The application sought prior approval of a proposed development under the provisions of Schedule 2, Part 20, Class AB (Class AB) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). These provisions grant planning permission for new dwellinghouses on terrace buildings in commercial or mixed use, subject to certain limitations and conditions.
4. The Council's delegated report considered the application against the provisions of Schedule 2, Part 20, Class A of the GPDO, which permits new dwellinghouses on detached blocks of flats. It concluded that prior approval should be refused due to concerns about the external appearance of the building.
5. In its appeal evidence, the Council maintained that prior approval required under Class AB should be refused due to the external appearance of the building. However, the Council also introduced a new reason for refusal, citing that the proposal would fail to comply with the limitation set out in Paragraph AB.1(g) of Class AB and, therefore, it would not be permitted development.
6. Taking the above into account, the main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 20, Class AB

of the GPDO and, if so, whether prior approval should be granted, having particular regard to the external appearance of the building.

Reasons

7. Paragraph AB.1(g) of Class AB, states that development is not permitted by Class AB if the height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part (not including plant, in each case).
8. Paragraph C of Part 20 states that, for the purposes of interpreting Part 20, "row", in relation to a terrace building, means "*the row of two or more terrace buildings of which it forms part, where each building in the row (a) shares a party wall with, or has a main wall adjoining the main wall of, the building on either side; or (b) if it is the end of a row – (i) in the case of a row comprising more than two buildings, it shares a party wall with, or has a main wall adjoining the main wall of, a building which fulfils the requirements of paragraph (a)*". A "terrace building" means "*a building which is not detached*".
9. Therefore, in assessing the proposal under Paragraph AB.1(g) of Class AB, the 'row of terrace buildings' comprises the buildings at 189-199 Mays Lane, of which the proposed development is part. It does not include other buildings on the Mays Lane frontage, which are detached from the appeal terrace.
10. The buildings in the existing row of terrace buildings are each 2-storeys tall with a consistent ridge line, and some chimneys. The Council calculates the highest part of the roof of the proposed extended building would be 4.4 metres above the maximum height of the neighbouring terrace properties. This figure broadly aligns with the details shown on the existing and proposed street scene (drawing no. 199ML-2-111) provided by the appellant, which shows the proposed extension would extend 4.5 metres above the ridgeline of the other terrace buildings in the row.
11. Therefore, even allowing for the height of the chimneys, the proposal would clearly extend beyond 3.5 metres of the height of the highest part of the roof of every other terrace building in the row. It follows that, even though the proposed extension could be lower in height than other buildings on the Mays Lane frontage, it is not permitted development under Class AB by virtue of the limitation set out in Paragraph AB.1(g).
12. Since I have concluded that the proposed development is not permitted development under Class AB, it is not necessary or appropriate to consider the prior approval matters, including the external appearance of the building.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

E Catchside
INSPECTOR