



## Appeal Decision

Site Visit made on 20 August 2021

**by A M Nilsson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> September 2021**

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**Appeal Ref: APP/Y5420/D/21/3268817**

**20 Franklin Street, London N15 6QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
  - The appeal is made by Mr G Schreiber against the decision of London Borough of Haringey.
  - The application Ref HGY/2021/0172, dated 22 December 2020, was refused by notice dated 3 February 2021.
  - The development proposed is described as: application for prior approval of the proposed enlargement of a dwellinghouse by construction of an additional storey pursuant to Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 1, Class AA.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr G Schreiber against the London Borough of Haringey. This application is the subject of a separate Decision.

### Preliminary Matters

3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits development consisting of the enlargement of a dwellinghouse by construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys.
4. As detailed within the GPDO, development under Class AA is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval. The local planning authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
5. The provisions of the GPDO require the local planning authority to assess the development proposed solely on the basis of a limited number of considerations. The Council has raised concerns in respect of the effect of the development upon the external appearance of the host property. I therefore consider this to be the main issue in the appeal.

6. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

### **Main Issue**

7. The main issue is whether prior approval should be given, having particular regard to the resulting external appearance of the dwellinghouse.

### **Reasons**

8. The appeal property is a two storey dwellinghouse. It is the end property of a terrace of four properties where there is a slight step in the ridgeline between the two central properties. There is also single storey detached properties within Franklin Street. To the side and rear of the appeal site are three-storey purpose-built blocks of flats.
9. The appellant contends that in considering the '*external appearance of the building*' this should be confined solely to the building in question and not to its wider context or street-scene. However, the list within paragraph AA.2(3)(A)(ii) is prefaced by the word including, which indicates that it is not a closed list, and that other factors may be taken into account.
10. Moreover, whether the external appearance of a dwelling is acceptable is inherently linked to how it would be seen in relation to neighbouring buildings and the wider street-scene or landscape, as it may be. Appearance is not, therefore, a matter to be assessed in a vacuum or in isolation, particularly in this case where the appeal building is located within a terrace of closely related properties. I therefore consider that it is reasonable, in the planning judgment under paragraph AA.2(3)(A)(ii) to take account of the effect of the proposed external appearance of the dwelling on the wider character and appearance of the area.
11. The proposed development is to erect an additional floor on top of an existing two storey end of terrace building. The appeal building is seen within a wider terrace of buildings which, although there is a slight step between the centre two dwellings on the terrace, has a consistency and rhythm in terms of height. The existing step is small and is not prominent. It reflects the slight incline in the street.
12. In the context of the above, the proposed development would, particularly when seen from parts of Franklin Street and Albert Road appear as a high, dominant, bulky and incongruous addition to the appeal building. It would visually disrupt the otherwise homogeneous character of the existing terrace and the sudden increase in height would jar with the remainder of the terrace.
13. Despite the use of matching materials, the proposed development would visually compete with the remainder of the terrace and would materially detract from the consistency and balance afforded to the otherwise lower-level development within the wider terrace which is positioned around the three storey blocks of flats to the side and rear. Although these flats are taller, and the resulting development would be of a similar height, they are purpose built blocks that are considerably different in appearance. Their presence does not justify allowing harmful development.

14. For the above reasons, I find that significant harm would be caused to the external appearance of the building. In this respect, the proposal would not accord with paragraph 126 of the Framework 2021 which seeks to create high quality, beautiful and sustainable buildings and places.
15. In reaching my findings, I have had regard to the conflict with Policy SP11 of Haringey's Local Plan – Strategic Policies (2013) and Policies DM1 and DM12 of Haringey's Local Plan – Development Management DPD (2017) which require, amongst other things, that development is of a high standard of design including for residential extensions.
16. Since the original decision The London Plan 2021 has been published by the Mayor of London. The policies contained in The London Plan 2021 replace those of The London Plan 2016 referred to in the Council's original decision and as such those policies are no longer relevant.

### **Other Matters**

17. The appellant has referred to documents entitled 'Planning Reform: Supporting the high street and increasing the delivery of new homes' (2018) and 'Planning for the Future' (2020). Although the citations the appellant has provided are supportive of the general principle, they do not remove the requirement in the GPDO to consider the impact on external appearance, of which I have found harm. I therefore give these documents limited weight in the appeal.
18. The appellant considers that the Council's approach to their consideration of the proposed development would frustrate the intentions of the legislation in providing more homes. Although the proposed development is for the extension to an existing dwelling rather than the creation of a new home, I do not consider that the Council's approach in considering the matter of the external appearance of the dwelling was incorrect. It is clear in the legislation that approval of the form of development proposed is not a *fait accompli*.
19. The appellant draws some comparison with the Council's decision to refusing to approve reserved matters on the grounds of the principle of development. As the proposed development is an entirely separate procedure, requiring the decision maker to have regard to 'external appearance', I find no merit in the appellants argument in this regard.
20. The appellant has referred to case law<sup>1</sup> in the approach to interpreting the GPDO. Although I have not been provided with a copy of the judgement, and the quotation refers to a different form of development, in effect, it clarifies that the interpretation of the GPDO should be on the basis of the 'ordinary meaning of the language used'. For the reasons given above, I consider that this is what the Council did in this case.

### **Conclusion**

21. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*A M Nilsson*

INSPECTOR

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<sup>1</sup> Lindblom LJ in R (Mawbey) v Lewisham BC [2019] EWCA Civ 1016