



Appeal Decision

Site Visit made on 20 October 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2021

Appeal Ref: APP/N5660/D/21/3275108

28 Stockwell Lane, London SW9 0SS

- 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 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Miss Faye Priestley against the decision of London Borough of Lambeth.
 - The application Ref 21/00896/P1AA, dated 3 March 2021, was refused by notice dated 28 April 2021.
 - The development proposed is Application for prior approval for the enlargement of the dwellinghouse by construction of one additional storey.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal's description as set out in the banner heading above is taken from the Appeal Form, as it better focusses on the development involved.
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 one additional storey, where the existing dwellinghouse consists of one storey, together with any reasonably necessary engineering operations. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority.
4. Development Plan policies can be considered relevant in prior approval cases but only insofar as they relate to the development and prior approval matters. The Council has confirmed that Policy Q2 from the Lambeth Local Plan (September 2015) referred to in the Decision Notice has been superseded by policy Q2 from the Lambeth Local Plan 2020-2035 (LP) (adopted 22 September 2021). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. The appellant is aware of the policy and has had opportunity to comment upon its relevance to the appeal.
5. The provisions of sub-paragraph (3) of Paragraph AA.2 of Part 1 require the developer to apply for prior approval with respect to several different matters. The Council's second reason for refusal confirms that the only prior approval matter in contention relates to point (a)(i) 'the impact on the amenity of any adjoining premises including overlooking, privacy, and loss of light'. I am mindful that the term 'including' used in the GPDO denotes that the list of

relevant considerations is not closed, but it should be of the same kind. The Council's reasoning refers to the enclosure created by the proposal and impacts on outlook. I am satisfied that these matters can be grouped under 'outlook' and be addressed in the prior approval determination, as they are clearly relevant to the amenity of any adjoining premises.

Main Issues

6. The main issues are:

- whether the proposal complies with the condition in sub-paragraph AA.2.(2)(b) with regards to the presence of windows in any wall forming a side elevation in the dwellinghouse; and
- if it does so, whether prior approval should be granted for the impact on the amenities of the occupiers of the properties at 48-56 Sidney Road (inclusive and even numbers only) regarding outlook and loss of light.

Reasons

Presence of windows

7. The application drawings listed on the Decision Notice identify the layout of the proposed additional storey and its external appearance, including the position of windows. The additional storey would be arranged in a U-shape which includes an inset section facing south. There are no windows proposed to either the external or inward facing side elevations. With this in mind, I have no reason to consider that the proposal would fail to comply with the condition in sub-paragraph (b), or with any other provision listed under Paragraph AA.2.(2). Hence, I conclude that the proposal would be permitted development under Schedule 2, Part 1, Class AA, Paragraph AA.2(2) of the GPDO.

Amenities

8. The appeal property concerns a dwellinghouse situated immediately to the rear of 48-56 Sidney Road. It would therefore already be a building that is apparent in views from those properties and their gardens. However, there will likely be visibility out and over the existing single storey visible above ground level.
9. The height of the proposed additional storey would accord with the limitation in the GPDO, be similar to trees immediately south, lower than surrounding properties, and its appearance would be similar to the existing dwellinghouse. It would also be no closer to neighbouring properties than the existing dwellinghouse and there are outbuildings present within some of the gardens of the properties. Nevertheless, given the increase in the height and scale of the dwellinghouse and its close proximity to the gardens of those properties, it would be likely to appear unduly oppressive and imposing when viewed from within those gardens. This would have an unacceptably harmful impact on outlook from the gardens, to the detriment of the amenities of the occupiers of those properties.
10. Notwithstanding the above, given the distance of the appeal property from the neighbouring dwellings, there would not be the same harmful effect on outlook from the dwellings themselves, particularly from upper floors. Furthermore, given the orientation of the appeal property and the presence of other buildings around the site, it is unlikely that the proposal would result in a harmful change

to the extent of daylight and sunlight that would be experienced either within neighbouring properties or their gardens.

11. Despite my findings in relation to loss of light, I conclude that the impact on the amenities of the occupiers of the properties at 48-56 Sidney Road (inclusive and even numbers only) would be unacceptably harmful. Hence, the proposal would be in conflict with the aims in respect of amenity as expressed in Policy Q2 of the LP.

Other Matters

12. I note that the proposed scheme would potentially provide benefits but, in contrast to an application for planning permission, my considerations are necessarily limited to the conditions, limitations and restrictions specified within the GPDO. For the purposes of clarity, given that I have identified that impact on amenities of neighbouring occupiers would be unacceptably harmful, prior approval should be refused.

Conclusion

13. For the reasons given above, the appeal should not succeed.

Paul Thompson

INSPECTOR