



Appeal Decision

Site visit made on 7 December 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2022

Appeal Ref: APP/G5750/D/21/3272405

11 Bond Street, Stratford, London E15 1LT

- 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 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Sohail Pervaze against the decision of London Borough of Newham.
 - The application Ref 21/00053/PREHHA, dated 9 January 2021, was refused by notice dated 10 March 2021.
 - The development proposed is application for prior approval for proposed enlargement of a dwellinghouse by construction of one additional storey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter, 'the Order') grants permission¹ for the enlargement of a dwellinghouse consisting of the construction of up to two additional storeys where the dwellinghouse already consists of two or more storeys. Paragraph AA.1(a) to (k) sets out the circumstances in which the permission granted by Class AA does not apply. The Council have not identified any conflict with the requirements of paragraph AA.1(a) to (k), nor do I have any evidence before me that would lead me to conclude differently.
3. Thus, paragraph AA.2 sets out the conditions that apply to the permission granted by Class AA whilst paragraph AA.3 describes the procedure for prior approval applications. Paragraph AA.2(3)(a) sets out the matters for which prior approval must be sought, with sub-paragraph (i) referring to the impact on the amenity of any adjoining premises, including overlooking, privacy and loss of light, whilst (ii) refers to the external appearance of the dwellinghouse including its design and architectural features of the principal elevation.
4. Paragraph AA.2(3)(b) goes on to state that before beginning the development the developer must provide a report for the management of the construction of the development and how any adverse impacts arising from a range of factors on adjoining owners or occupiers will be mitigated. Where prior approval is required, paragraph AA.3(2)(c) states that the application must be accompanied by a plan drawn to an identified scale and showing (i) existing

¹ By virtue of Article 3(1) and Schedule 2, Part 1, Class AA

and proposed elevations and (ii) the position and dimensions of the proposed windows.

5. 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 determined the appeal accordingly.

Main Issue

6. With the above in mind, the main issue is whether or not the proposal would accord with the provisions of Part 1, Class AA of the Order.

Reasons

7. The conditions set out at paragraphs AA.2(3)(a)(i) and (ii), with regard to amenity and external appearance respectively, are not closed lists. Examples of each are given in each case but are not exhaustive lists.
8. With regard to external appearance, the additional storey seeks to replicate within the additional floor the existing fenestration pattern of the appeal property's first floor elevations. However, as a result, the proposed front elevation would take on an unwelcoming appearance with an ungainly sense of proportion arising from an uneasy balance between wall and window, that balance being heavily skewed towards wall as a consequence.
9. Conversely, at the rear, the resulting elevation would be contrived and confused, the rear excessively punctuated by a multitude of small windows with a strong vertical emphasis. In both cases however, the result would be an incongruous and discordant form of extension which would draw unwanted attention to the unwieldy proportions and external appearance of the extended dwellinghouse.
10. The Order refers at paragraph AA.2(3)(a)(ii) to the external appearance of the dwellinghouse, but it is unlikely that either the dwellinghouse or the effects of a proposal would be experienced in isolation. In this respect, the Council are concerned that the additional height, bulk and mass would appear visually incongruent within the street scene and wider area. I agree. The existing dwelling is sited in a discrete, mid-block location within a relatively tight and confined 3-sided residential courtyard. The consistency within the courtyard to which the appeal property currently contributes is a distinctive feature of this particular courtyard, and which the proposal would significantly and harmfully erode.
11. Thus, for the reasons set out, the proposed extension would cause harm to the external appearance of the front and rear elevations of the appeal property. So too, for the reasons I have set out, would harm be caused to the character and appearance of the courtyard setting within which the appeal property lies.
12. Although paragraph AA.3(12) requires the Council to have regard to the National Planning Policy Framework (the Framework), in so far as it is relevant, it has not been referred to directly. Nor have I been referred to any development plan policies. Nevertheless, my conclusions lead me to also conclude that the proposal would be in conflict with the overarching high-quality design aims of section 12 of the Framework, particularly paragraphs 126, which emphasises the importance of high-quality design, and paragraph

130 which seeks to ensure that developments add to the overall quality of an area and are visually attractive as a result of good architecture. Paragraph 134 goes on to state that development that is not well designed should be refused. Whilst not determinative

13. With regard to the areas of amenity given as examples by the Order, the Council do not identify any conflict with the Order's provisions in terms of privacy or overlooking, or sunlight / daylight. I do not disagree. With regard to whether or not the proposal would be overbearing upon neighbouring properties, I saw that Bond Street is not a particularly wide street, forming more of a courtyard-type development around a short cul-de-sac and parking area. Although the additional floor of the proposed extension would add height to the appeal property, that additional height would not be so great as to be overbearing upon, or materially harmful to the amenities of, occupiers of neighbouring properties. The proposal would not, I conclude, cause material harm to the amenities of occupiers of adjoining properties.

Other Matters

14. The permission granted by the Order is, as described above, subject to a range of conditions as set out within paragraphs AA.2(2), AA.2(3) and AA.3(2). The Council have not identified any conflict with the conditions set out within paragraph AA.2(2), nor have I been presented with any evidence to conclude otherwise.
15. With regard to the conditions set out by paragraph AA.2(3), specifically paragraph AA.2(3)(b), the Order is clear, as a condition of the permission that it grants, that it requires details for the management of construction to be provided before beginning the development. The absence of such information at this stage is not therefore critical to the outcome of this appeal.
16. Turning to paragraph AA.3(2), specifically sub-paragraph AA.3(2)(c), the procedure for an application for prior approval is clearly set out, together with requirements for accompanying plans and drawings. The Council contend that the proposed plans and elevations do not show the dimensions of windows.
17. However, I am satisfied that the submitted plans and elevations are drawn to an identified scale and show the existing and proposed elevations of the dwellinghouse. The windows are shown with written dimensions on the existing and proposed floor plans and, whilst corresponding written dimensions are not shown on the existing and proposed elevations, they are clearly drawn to an identified scale from which the full dimensions can be readily ascertained. There is no conflict with paragraph AA.3(2)(c) as a consequence.

Conclusion

18. I have concluded that there would be no harm to the amenities of occupiers of adjoining properties, and no conflict with the provisions of paragraphs AA.2(3)(b) or AA.3(2)(c). However, by virtue of the harm caused to the external appearance of the appeal property I conclude that prior approval should be refused and the appeal should be dismissed.

G Robbie

INSPECTOR