
Appeal Decision

Site visit made on 1 March 2022 by S Witherley CIHCM MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2022

Appeal Ref: APP/Y5420/D/21/3280936

92 Pulford Road, London N15 6SR

- 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, Schedule 2, Part 1, Class AA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Shimshon Bard of Parrywest Estates Ltd against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/2104, dated 30 June 2021, was refused by notice dated 12 August 2021.
 - The development proposed is: The erection of one additional storey immediately above the existing building.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for costs

3. A separate cost application has been submitted by Mr Shimshon Bard against the decision of the Council of the London Borough of Haringey. This will be dealt with separately.

Preliminary Matters

4. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) as amended was amended on 31 August 2020 to introduce Class AA to Part 1 of Schedule 2, setting out permitted development rights for development consisting of works for the construction of up to two additional storeys on an existing dwellinghouse that consists of two or more storeys, or for one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
5. As detailed within the GPDO¹, 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

¹ Part 1, Class AA, paragraph AA.2(3)

not comply with the limitations or restrictions that are applicable to such permitted development.

6. 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. There are effectively two stages to assessment – the first being eligibility. The Council conclude that the proposal is eligible to be considered under the prior approval process and has not raised any conflict with the conditions set out in the GDPO. There is no evidence to conclude differently in that regard. They have however, raised concerns in respect of the effect of the development upon the external appearance of the host property and neighbouring amenity. My consideration of the appeal shall therefore focus on these matters.
7. The Council has referred to various development plan policies. These policies have only been considered insofar as they may be relevant to the context of specific prior approval matters. Therefore, the policies are not determinative of themselves, and the proposal has been considered on its merits in the confines of the prior approval regime.
8. Since the determination of this application, the following High Court Judgement has been handed down: *CAB Housing LTD v SSLUHC & Broxbourne; Beis Noeh LTD v SSLUHC & LB Haringey; Mati. Rotenberbg v SSLUHC & LB of Haringey* [2022] EWHC 208 (Admin). Both parties were given the opportunity to comment on the Judgement. I have had regard to those comments received.

Main Issue

9. Whether prior approval should be granted having regard to 1) the external appearance of the dwellinghouse and 2) the effect of the proposed development on the amenity of the surrounding neighbours.

Reasons

10. No. 92 is a flat roofed, two-storey terraced property located in a residential area. Pulford Road is a long, straight, street comprising a number of terraced blocks of the same design. There is a high degree of consistency in the street in terms of roof height, materials and external appearance and this is a defining characteristic of the road. The proposed additional floor would fundamentally alter the architectural composition of the property within the context of the wider terrace block. This would have a harmful effect on the external appearance of the dwellinghouse that would also appear inconsistent and juxtaposed against the adjoining neighbours. The resulting property would be notably taller than its neighbours, with blank gable walls projecting above the established roofline at each side.
11. The proposed materials would correspond with the host dwelling and the fenestration pattern would also align with the existing. However, whilst the architectural detailing would match that of the existing dwelling, the additional storey would significantly add to its height thus creating a disproportionately tall building which would tower above that of the adjoining properties. Furthermore, as it would appear to jut out from above the neighbouring flat roofs it would appear as an unsympathetic feature. The visual harm would not be restricted to the terrace row itself but also when viewed from the

surrounding areas where it would appear extremely at odds within the terrace block formation.

12. Having regard to the above, it is considered that the resulting external appearance of No. 92 would cause harm to the overall character and appearance of property itself and represents poor design. This would in turn result in the proposal having a harmful visual impact on the neighbouring properties within the wider terrace, and surrounding locality.
13. The appellant maintains that the Order does not require an assessment of the impact on the wider area but specifically is limited to consideration of the principal elevation. Whilst the wording of the GPDO refers to the external appearance of the dwellinghouse, it does not specifically exclude consideration of the wider area.
14. Since the application was decided, the recent High Court Judgment *CAB Housing LTD v SSLUHC & Broxbourne; Beis Noeh LTD v SSLUHC & LB Haringey; Mati. Rotenberg v SSLUHC & LB of Haringey* [2022] EWHC 208 (Admin), concluded the control of the external appearance of the dwelling house is not limited to the impact on the subject property itself, but also includes impact on neighbouring premises and the locality.
15. The appellant has provided copies of Inspector decisions² which granted prior approval for similar types of development. These decisions predate the above judgement. Whilst no details other than the Inspector's decision notice has been submitted it is clear that the site circumstances of those cases are entirely different to the case before me.
16. Furthermore, it is for the Inspector, as the decision maker, to determine each appeal based on the details before them and also whether the effect of the proposal is considered in the context of the wider area. This is a matter of planning judgment. The high court judgement is clear in this respect and is clear that it is open to the decision maker to consider the wider area in the assessment.
17. Having regard to the above it is considered that the proposal would have a harmful effect on the external appearance of the dwellinghouse. As such, there would be conflict with the aims of Policy D3 of the London Plan 2021 (LP), Policy SP11 of the Haringey Local Plan 2017 (HLP) and Policies DM1 and DM12 of the Development Management DPD 2017 (DMDPD). These policies amongst other things seek development to be design led and be of a high standard and be reflective of the existing character and appearance.
18. The Council has referenced Policies D1 and D8 of the LP in their refusal reason, however, it is not considered these policies are relevant to the above prior approval matter.

Living Conditions

19. Given its upward projection and separation distances from neighbouring boundaries, the proposed additional floor would not result in a loss of outlook and increased sense of enclosure. Furthermore, the potential for overlooking to and from No. 92 into neighbouring gardens and properties would not result in a material increase over and above what already occurs from existing first

² APP/X1735/D/21/3269472 and APP/T1410/W/20/3263486

floor windows. Consequently, the proposal would not give rise to unacceptable levels of overlooking or loss of privacy.

20. As such, the proposed development would not be harmful to the amenity of the surrounding neighbours. There would be no conflict in this regard with Policy D3 of the LP, Policy SP11 of the HLP or Policy DM1 of the DMDPD. Amongst other things, these seek to ensure that development delivers appropriate levels of privacy and does not impact on neighbouring amenity.
21. The Council has also assessed the proposal against Policies D1, and D8 of the LP, and found it contrary to them. However, it is not considered these policies are directly relevant to the impact of the proposal on neighbouring amenity and therefore not considered material in the assessment of the above prior approval matter.

Conclusion

22. Having had regard to all matters raised, the proposal would not have an adverse effect on the amenities of the surrounding neighbours but would have an adverse effect on the external appearance of the dwellinghouse and the surrounding area. It is therefore recommended that the appeal should be dismissed.

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR