



Appeal Decision

Site visit made on 23 February 2022 by B Phillips BSc MSc MRTPI

Decision by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal Ref: APP/G5750/D/21/3283052

81 Market Street, Eastham, Newham, London E6 2RD

- 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 Mr Ravi Rastogi against the decision of London Borough of Newham.
 - The application Ref 21/01379/PREHHA, dated 2 June 2021, was refused by notice dated 23 July 2021.
 - The development proposed is an upward extension Class AA to create additional floor to the existing C3 dwelling.
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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.

Preliminary Matters

3. 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 GPDO), planning permission is granted for the enlargement of a dwellinghouse consisting of the construction of additional storeys subject to limitations and conditions. Paragraph AA.2.(3)(a) requires that before beginning the development, the developer must apply to the Council for prior approval in relation to certain matters.

Main Issue

4. The main issue is whether or not the proposal would be permitted development pursuant to Schedule 2, Part 1, Class AA of the GPDO, with reference to:
 - the impact of the development on the external appearance of the dwellinghouse;
 - the effect of the proposal on the amenity of adjoining premises with regard to light and outlook; and,
 - the management of the construction of the development.

Reasons for the Recommendation

External appearance

5. 81 Market Street forms the end of a two-storey terrace at the corner of Market Street and Melbourne Road within a residential area in Newham. Whilst there are properties of varying design in the surrounding area, two storey terraces dominate and establish its prevailing character.
6. Paragraph AA.2.(3)(a)(ii) of Class AA requires prior approval to be sought for 'the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' The use of the word 'including' means that the lists that follow are not exhaustive and that other factors could affect the external appearance of the dwellinghouse. Furthermore, the wording of (aa) and (bb) suggests that some assessment should be made of how the dwellinghouse would appear in the street scene.
7. The proposed fenestration, materials and roof profile would match that of the existing property. However, the addition of a storey would mean that No 81 would unbalance the coherent, two storey composition of its terrace. Moreover, it would be prominently and incongruously taller than the other terraced dwellings within the Market Street and Melbourne Road street scenes.
8. Consequently, I find that the external appearance of the dwellinghouse would be harmful, and the proposal would not accord with the requirements of paragraph AA.2 (3)(a) (ii) of Class AA.

Amenity of adjoining premises

9. No 81 and its adjacent neighbour within the terrace, No 83, have north facing gardens, which, as a result, are denied much access to light by the terrace. The mass of the proposed enlargement would be confined to the existing plan of the property and would be unlikely to have a significant impact on levels of light reaching the rear of No 83 above and beyond the existing situation. The outlook from the outside space behind No 83 is also already limited, and for the same reasons, this is unlikely to be significantly worsened by the proposal.
10. To the immediate rear of No 81 is the single storey property 81a Market Street. It is unclear how No 81a receives light as there are no windows evident; it appears that it is only served by a glazed roof element. Given its orientation due north of No 81 and the separation distance to the proposed enlargement, the impact on light reaching No 81a would be limited. The outlook from No 81a through the glazed roof or over the fence would also be largely unchanged.
11. 79 Market Street is located on the opposite side of Melbourne Road. Given the separation distance, the impact of the proposed enlargement on the light reaching the side elevation windows of this property would be similarly limited. The outlook from these, partly obscure glazed, windows is mostly at a distance towards the existing side elevation of the appeal property, and the additional height of this side elevation would have little additional impact.
12. For the reasons above, the proposal would have an acceptable impact on the amenity of the adjoining premises.

Construction management

13. The appellant did not submit a report for the management of the construction of the development as part of the application for prior approval. However, paragraph AA.2.(3)(b) of Class AA only requires such a report to be submitted to the Council before the beginning of development. Furthermore, paragraph AA.3.(2) sets out the documentation that must accompany an application for prior approval, and a construction management report is not included in the list. As such, this is a matter that could have been addressed with a condition, had I been minded to recommend that the appeal be allowed.

Other Matters

14. My attention has been drawn to examples where permission has been granted by the Council for proposals that the appellant contends are comparable to this case. Three of these examples relate to planning permissions and are therefore subject to the weighing of planning merits and as such are not directly comparable to the appeal scheme. They also appear to pertain to street scenes which have relatively varied roofscapes. No details are provided of the prior approval example in Medway¹ which prevents direct comparison of the visual impact. Notwithstanding this, the examples do not alter the requirements of the legislation on which I must base my decision.
15. The appellant has also drawn my attention to a number of potential benefits of the proposal relating to the principle of the development. However, they are not germane to my assessment, which must be focused on the subject matters relevant to the prior approval.

Conclusion and Recommendation

16. Given my findings above with regard to the effect on the external appearance of the dwellinghouse, the proposal would not constitute permitted development under the terms of Schedule 2, Part 1, Class AA of the GPDO. Consequently, and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Matthew Jones

INSPECTOR

¹ Medway Council application ref: MC/21/0768