



Appeal Decision

Site visit made on 26 April 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 MAY 2022

Appeal Ref: APP/E5900/D/21/3283891

72 Bonner Street, London E2 0QP

- 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) (the GPDO).
 - The appeal is made by Mr Abdul Muhit against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00660, dated 23 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is addition of a new roof habitable level to a single family dwelling under permitted development; associated internal alterations. The new additional level is 2.5m higher externally when compared to the existing roof and the roof of the adjacent properties.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is some variation in the description of the development over the course of the application and subsequent appeal, and I have taken the description from the planning appeal form as this accurately reflects the proposal.
3. After the date of the submission of the appeal, a court judgment was made regarding *Cab Housing Ltd & OTHERS v SSLUHC* [2022] EWHC 208 (*Cab Housing*) which raised matters relevant to this appeal. Both main parties were given the opportunity to comment on this decision and I have had regard to the comments made.

Main Issue

4. The main issue is the effect of the proposal on the external appearance of the dwellinghouse.

Reasons

5. Paragraph AA.2.(3)(a) of the GPDO sets out matters for which the developer must apply to the local planning authority for prior approval. On this main issue, the Council refused prior approval in respect of matter (ii) the external appearance of the dwellinghouse.

6. The appellant contends that the GPDO restricts the design assessment to the dwellinghouse itself, and not with the wider area. However, the list within matter (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. It is therefore a matter of planning judgment as to whether consideration is given solely to the effect on the dwellinghouse's design and/or the effect on its relationship with the wider area.
7. This approach is supported by the *Cab Housing* judgment, which sets out that the Council is empowered to assess and control all relevant aspects of external appearance, and not simply those which impact on the subject building. I have had regard to the appellant's comments on *Cab Housing*, and their contention that this goes against the spirit of the legislation. However, this does not negate the validity of the *Cab Housing* judgment, or the weight I give to it with regards to the consideration of external appearance.
8. I have had regard to the appeal decisions referred to by the appellant which state that the GPDO wording suggests a comparatively narrow assessment as to the external appearance of the dwellinghouse itself. However, these decisions also set out that the GPDO does not specifically exclude consideration of the wider area. In any event, these decisions pre-date *Cab Housing*.
9. Turning to the matter under consideration, the appeal site is part of a terrace of 2-storey buildings. A defining feature of the terrace are front facing gable walls of a similar height and design, which due to their regular spacing gives the terrace a pleasing rhythm and conformity. This is apparent even allowing for a change in the alignment of the terrace and the extent of a commercial property at one end. Due to the visual contribution of the appeal site to this terrace, I do not consider it to be appropriate to consider the external appearance of the dwellinghouse in isolation. The relationship with the terrace and the wider streetscape are, in this case, relevant aspects of the consideration of the effect of the development on the external appearance of the dwellinghouse.
10. The proposal would increase the height of the dwellinghouse within this terrace. Due to the projection above the neighbouring properties, this would introduce a jarring and discordant element into this relatively cohesive group of buildings. The flank walls of the extension would be readily apparent projecting above the neighbouring buildings, and the upwards projection of the inset element to one side would also give the proposal an awkward unbalanced appearance. Although the design of the extension would reflect the existing first floor, this would not be sufficient to overcome the harm arising from the increase in height and prominence.
11. The proposal is also located close to the boundary of the Victoria Park Conservation Area (the CA). The appeal proposal would be viewed within the context of traditional residential terraces within the CA, which the CA Appraisal specifies contribute to a coherent and distinctive character in the area. Consequently, these traditional terraces contribute to the importance of the CA as a designated heritage asset. Although the appeal proposal relates to a relatively modern dwelling outside of the CA, the introduction of such a discordant feature in close proximity to traditional terraces would detract from the setting of the CA. Whilst the harm would be less than substantial, there are no public benefits before me that would outweigh that harm.

12. For the above reasons, I conclude that significant harm would be caused to the external appearance of the dwellinghouse, with consequent harm to the character and appearance of the area and the setting of the CA. The GPDO sets out that regard should be had to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval. Due to the identified harm, the proposal would conflict with the Framework in respect of achieving well-designed places as well as conserving and enhancing the historic environment. Insofar as they are relevant to this matter, the proposal would also conflict with the design and heritage requirements of policies S.DH1 and S.DH3 of the Tower Hamlets Local Plan 2020.
13. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR