



Appeal Decision

Site visit made on 29 March 2022 by Darren Ellis MPlan

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/Y5420/D/21/3280898

14 Pulford Road, London N15 6SP

- 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 Aron Bard against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/2076, dated 29 June 2021, was refused by notice dated 11 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.

Application for Costs

3. An application for costs was made by Mr Aron Bard against the Council of the London Borough of Haringey. This application is the subject of a separate decision

Preliminary Matters

4. 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 two additional storeys, where the existing dwellinghouse comprises two or more storeys, 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.
 5. The GPDO sets out that the National Planning Policy Framework (the Framework) can be considered in prior approval cases so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
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6. The Council's reasons for refusal relate only to condition AA. 2(3)(a)(ii), the external appearance of the dwellinghouse. However, concerns were also raised in the officer report and by interested parties relating to AA.2(3)(i), the impact of the proposal on the amenity of adjoining premises. Therefore, I have considered both prior approval matters below. There is no dispute between the parties that the proposal complies with the limitations in GPDO paragraph AA.1 and from the evidence before me, I see no reason to disagree.

Main Issue

7. The main issue is whether prior approval should be granted having regard to the external appearance of the dwellinghouse and the impact on the amenity of any adjoining premises.

Reasons for the Recommendation

External appearance

8. The local area to the site is predominantly residential and is comprised of two-storey terraces and blocks of flats. The appeal property makes up part of a well-balanced terrace of two-storey houses that exhibit consistent heights, roof forms and external facing materials. Overall, the terrace has a cohesive appearance and rhythm which makes a positive contribution to the character of the street.
9. 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.'
10. Both parties have referred me to other appeal decisions for Class AA proposals, some where the Inspector assessed only the external appearance of the dwelling itself and others where consideration was given to the context of the dwelling and the wider area. Until recently there was little guidance as to the correct approach. Since the determination of those appeals however, a judgement has been made (CAB Housing Ltd and others v SSLUHC and others [2022] EWHC 208 (Admin)) which clarifies that for Class AA proposals the control of the external appearance of the dwelling is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.
11. Furthermore, the use of the word 'including' in AA.2.(3)(a)(ii) means that the list that then follows is not exhaustive. Therefore, consideration of external appearance can go beyond consideration of the principal elevation or any side elevation which fronts a highway. This approach is in keeping with the Mawbey judgement¹ cited by the appellant which found that the ordinary and common meaning of words should be used in the interpretation of development orders.
12. The proposal would add an additional storey to the appeal property, designed with matching features, roof form and materials to the existing building. Nonetheless, the addition of the extra storey would create a jarring and discordant change in height part way along the terrace, which would severely disrupt the harmony of the existing terrace and result in a property that would

¹ R (Mawbey) v Lewisham BC [2019] EWCA Civ 1016

be harmfully at odds with the external appearance of the existing dwelling in the context of its immediate surroundings.

13. Consequently, the proposal would not add to the overall quality of the area or be sympathetic to the surrounding built environment as required by Framework paragraph 130. Therefore, prior approval should not be granted having regard to the external appearance of the dwellinghouse.
14. The proposal would also conflict with the design related criteria of Policies D1, D4 and D6 of the London Plan (March 2021) (LP), SP11 of Haringey's Local Plan Strategic Policies (March 2013) (HLP) and DM1 of the Haringey Development Management DPD (July 2017) (DPD), which seek high quality design.

Amenity of adjoining premises

15. The CAB Housing judgement confirms that impact on amenity for the purposes of paragraph AA.2.(3)(a)(i) of Class AA means that the listed factors are not exhaustive and that other factors that could affect the amenity of adjoining premises should be taken into account. This could include, for example, any potential overbearing impact.
16. The properties in the terrace have south-east facing gardens, therefore the proposed extra storey would only be likely to cause additional overshadowing of the garden of No 16 for a short period during the late afternoon or evening. The additional storey would be in line with the terrace and as such, while visible from neighbours, would not create a sense of enclosure, harmfully affect their outlook or be so dominant as to appear overbearing. Moreover, the impact in these regards would be mitigated by the flat-roofed nature of the extension. A degree of mutual overlooking of the rear gardens already exists between the properties in the terrace and the proposal would not result in a significant increase in overlooking compared to the existing situation.
17. Overall, therefore, the proposal would not have significant adverse effects on the amenity of the adjoining premises. In this regard, the proposal would not conflict with the Framework which requires a high standard of amenity, or with the amenity related criteria of LP policies D1, D4 and D6, HLP policy SP11 and DPD policies DM1 and DM12.

Other Matters

18. The appellant refers me to an additional storey permitted at 383-403 Seven Sisters Road, however I do not have the full details of that scheme or how that came to be permitted. It has not therefore been demonstrated to be comparable to the scheme before me, which I have considered on its own merits.

Conclusion and Recommendation

19. Although the proposal would be acceptable in terms of amenity on adjoining premises, it would harm the external appearance of the dwellinghouse. I therefore recommend that prior approval should not be granted and that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

22. 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.

L McKay

INSPECTOR