



Appeal Decision

Site visit made on 12 July by S Witherley CIHCM MRTPI

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2022

Appeal Ref: APP/G5750/D/21/3288163

13 Birch Close, London E16 4QW

- 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 Waseem Ahmed against the Council of the London Borough of Newham.
 - The application Ref 21/01974/PREHHA, is dated 5 August 2021, was refused by notice dated 13 September 2022.
 - The development proposed is: Prior approval for proposed enlargement of a dwellinghouse by construction of one additional storey.
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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. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) 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.
4. 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. Prior approval appeals should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. The principle of development is established through the grant of planning permission by the Order.

Main Issue

6. The main issue is whether or not prior approval should be granted 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; and
- the management of the construction of the development.

Reasons

External Appearance

7. No. 13 is a single storey L shaped property that forms part of a group of buildings. The property sits across two sides of its corner setting with its rear elevations overlooking a private amenity area. It has a relatively blank front façade which overlooks a section of pavement and the flank wall of a neighbouring two storey property. The roof is mono pitched with the plain ridge line at the front which elongates the front elevation.
8. It sits on the outer edge of a planned residential estate where there are various house types including single storey and two storey properties. Throughout the estate there are shared characteristics including the use of similar materials and consistency in the form and scale between the different property types. Collectively these shared features make a positive contribution to the character of the area.
9. The proposed additional floor would be built with a similar roof profile and design to those of the existing building. However, notwithstanding those matters, the additional storey would appear as a prominent skyline feature within this group of single storey properties. Given the highly uniform roof height across the group, the increase in height on a single dwelling would appear extremely incongruous and would disrupt the deliberately planned consistency.
10. Moreover, the resulting two-storey return elevation that would adjoin No. 11, the neighbouring single storey dwelling, would become an imposing and featureless façade that would be unattractive in architectural terms at a prominent position when approached from Birch Close. Similarly, the flank wall facing Manor Road would likewise be a tall and featureless façade. Consequently, having regard to the original design of the property itself and the shared characteristics of the surrounding blocks, the additional storey would appear harmful and incongruous.
11. 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 external appearance of the building. Details of four previous prior approval appeals¹ were provided, all of which were allowed. The appellant argues that in each of those previous appeals the character or appearance of the wider area was not considered.
12. Minimal details have been provided regarding each of these appeals and therefore it is difficult to ascertain whether any of the site circumstances and the relationship they share with neighbouring properties are comparable with the appeal before me. Furthermore, whilst the wording of the GPDO refers to the external appearance of the dwellinghouse, it does not specifically exclude consideration of the wider area.

¹ APP/J1535/D/21/3266264, APP/T1410/W/20/3263486, APP/N5090/W/21/3267852 & APP/Q1445/W/21/3267608

13. Moreover, in the recent High Court Judgment *CAB Housing LTD v SSLUHC & Broxbourne; Beis Noeh LTD v SSLUHC & LB Haringey; Mati. Rotenberbg 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.
14. Additionally, 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.
15. Having regard to the recent judgment and on the basis of information provided I cannot be certain that the site circumstances of those previous appeals are comparable to the appeal before me.
16. In any event, I conclude that the proposal would cause unacceptable harm to the external appearance of the dwellinghouse, of itself, and that the proposal would also appear incongruous in the surrounding streetscape.

Construction Management

17. 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, the report does not have to be submitted with the prior approval application, and the proposal would accord with paragraph AA.2.(3)(b) as long as such a report is submitted before the development has commenced, should prior approval be granted.

Conclusion

18. For the reasons given above, the additional storey would represent a harmful and incongruous extension and I conclude that prior approval should not be granted having regard to the external appearance of the dwellinghouse.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

19. 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