



Appeal Decision

Site visit made on 12 July 2022 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/21/3285605

23 Chadwin Road, London E13 8ND

- 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 Ravi Rastogi against the Council of the London Borough of Newham.
 - The application Ref 21/01777/PREHHA, is dated 15 July 2021, was refused by notice dated 26 August 2021.
 - The development proposed is: Application for prior approval for proposed enlargement of 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. 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.
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 Issues

6. The main issues are:

- the impact of the development on the external appearance of the dwellinghouse;
- the effect of the proposal on the amenity of occupiers of neighbouring premises; and,
- the management of the construction of the development.

Reasons

External Appearance

7. No. 23 is a two-storey dwelling sat within a long row of terraced properties in a predominantly residential area. The appeal property has a traditional pitched roof which is similar to the neighbour at No. 21. The neighbour on the other side, No. 25, has a pitched roof with gable front which sits above the eaves level. As a result of the roof profiles, prominent water tables, the symmetry in the front door placements and window profiles, the terrace has a cohesive appearance which makes a positive contribution to the overall character and appearance of the area.
8. The proposed additional storey would have a similar roof profile as the existing and would seek to replicate the vertical windows of the floors below and would use matching materials. However, notwithstanding those matters, the additional floor as a result of its increase in height would alter the original form and scale of the roof of No. 23. This would result in it appearing as a disproportionate addition to an otherwise well balanced and coherent front façade. Furthermore, within the context of the terrace it would appear as an odd and juxtaposed addition and would appear far more prominently within the skyline and would significantly disrupt the unified roof height of the terrace.
9. Consequently, the proposal would cause unacceptable harm to the external appearance of the dwellinghouse which would appear incongruous in the surrounding streetscape.

Amenity

10. The appeal site along with the adjoining properties No. 21 and No. 25 Chadwin Road have north-facing gardens and as noted by the Council have limited access to sunlight and daylight. Given this, the proposal would be unlikely to cause additional overshadowing to what is already experienced, and any purported increase would not be to a degree that would be materially harmful to the living conditions of the neighbouring occupiers.
11. Given that the proposed extension would add considerable height and mass to the upper part of the dwelling, it would result in an adverse effect which would be overbearing, creating an increased sense of enclosure to the occupiers of the properties opposite when viewed across the adjoining rear gardens. Whilst the GPDO states that consideration should include an assessment of the impact on privacy, overlooking and loss of light, the Courts have held that this is not a closed list and it is relevant to consider the sense of enclosure and overbearing impact as part of my assessment on the amenity of neighbouring occupants¹.
12. In terms of privacy, I agree with the Council that the proposal would not impact on the adjoining neighbouring occupiers privacy.

¹ CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

13. For the reasons set out above, the proposal would not result in a material worsening effect on the amenity of adjoining neighbours in terms of light, overshadowing, and privacy. However, I find it would have an overall negative impact on the amenity of the adjoining properties in terms of increased sense of enclosure and overbearing impact and cause harm to their living conditions.

Construction Management

14. 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 the 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.

Other Matters

15. The appellant has referenced 4 previous developments that have been allowed² and has provided details pertaining to each of these.
16. Example 1, sought full planning permission for an additional storey to create an additional flat. This planning permission was granted in 2018. This scheme relates to a building with several different characteristics to the appeal property. For example, the location of the property in the street is different to the appeal site as well as the design, scale and form of the existing property. Therefore, the example is not directly comparable to the appeal before me.
17. Example 2, sought an additional storey of accommodation ancillary to the second floor flat. This was granted full planning permission in 2017. Having considered the details submitted, I find the site circumstances are very different to the appeal site as well as differences in terms of the overall design, form and scale of the existing buildings.
18. Example 3, sought an additional storey of accommodation to a two storey building and was granted full planning permission in 2015. Having considered the details submitted, the design of the existing building and the neighbouring building appear to be different to the site circumstances and street scape of the appeal before me. The terrace row in which this appeal site sits has a consistent roof line whereas the details of the 2015 scheme appear to show neighbouring properties having various roof profiles. Thus, the circumstances are not directly comparable.
19. Example 4, this scheme was granted prior approval for an additional storey in 2021. No details of the scheme were submitted other than the decision notice. I cannot therefore determine whether the schemes are comparable in terms of site circumstances, relationship with adjoining neighbours, whether the existing features of the properties are similar and whether the character and appearance of the host site and street scape are comparable with the appeal site.

² Planning Ref: 18/01515/FUL, 17/01872/FUL, 15/00782/FUL and MC/21/0768

20. Whilst the above examples sought similar types of development of upward extensions, the site circumstances of each appear to be very different from the appeal scheme before me. Each proposal is to be considered on its own individual merits taking into account, among other things, the individual site circumstances, its relationship with any adjoining neighbours, existing features including the design, scale and form of the appeal building and the areas character and appearance. The granting of planning permission elsewhere does not establish a precedent for similar proposals. I attach no weight to these other examples.

Conclusion

21. For the reasons given above the proposal would cause harm to the external appearance of the dwellinghouse and this alongside the increased sense of enclosure and overbearing impact on the neighbouring amenity of the adjoining properties would not be acceptable. It is therefore recommended that prior approval should not be granted.

S Witherley

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.

Chris Preston

INSPECTOR