
Appeal Decision

Site visit made on 9 November 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/C5690/D/22/3299069

70 Bampton Road, Forest Hill, London, SE23 2AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Jivko Atanasov against the decision of London Borough of Lewisham.
 - The application Ref DC/22/125208, dated 24 January 2022, was refused by notice dated 4 April 2022. The development proposed is Prior Approval for the construction of one additional storey resulting in a maximum height of 8.2m at 70 Bampton Road, SE23, under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – Schedule 2, Part 1, Class AA.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 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 consisting of the construction of up to two additional storeys. The Council have concluded that the appeal scheme meets the criteria in Paragraph AA.1 of the GPDO and would therefore be permitted development. I have no reason to disagree. That said, development under Class AA is permitted subject to a condition that the developer must apply to the Local Planning Authority for prior approval as to the external appearance of the dwellinghouse.
3. In making my assessment of the merits of the proposal I have taken into account the judgement made in the High Court¹ regarding the interpretation of Class AA of Part 1 of the GPDO. This judgement confirmed that in paragraph AA.2(3) of Part 1, the “external appearance” of the dwelling house is not limited to its principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations. Moreover, it indicates that control of the external appearance of the dwelling is not limited to the impact on the subject property itself, but also includes impacts on neighbouring premises and the locality.

¹ GPDO Class AA and “External Appearance”: CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

Main Issue

4. The main issue in this appeal is whether prior approval should be granted, having particular regard to paragraph AA.2 (3)(a)(ii) of the GPDO and the external appearance of the dwellinghouse.

Reasons

5. The appeal property is a two storey flat roofed dwelling that sits at the end of a terrace of similarly designed properties. The properties within the terrace, which incorporates numbers 70 to 80 inclusive, have a consistent height and a well-defined building line, being set a short distance back from the footpath.
6. The proposed design of the additional storey would have similar proportions and architectural detailing of the floors beneath it. Consequently, the proposed development would respect the design and architectural features of the existing elevations and the character and form of the building when viewed in isolation. However, given its relationship with the remainder of the terrace, its context is an important aspect of the building's external appearance.
7. The proposed additional storey would be sited close to the footpath, in an elevated position and, given its scale relative to the neighbouring properties, would appear as an incongruous and prominent feature within the street scene. Moreover, it would upset the symmetry of the terrace and unbalance its harmonious design. Consequently, the proposal would be out of keeping and harmful to the character and appearance of its immediate locality.
8. The presence of a large multi stemmed tree, located within the pavement, would soften the appearance of the extension when viewed from the southeast, but it would not hide or extinguish the impact. Moreover, the tree is not in the control of the appellant and could be removed at any time.
9. I have had regard to the policies of the development plan in so far as they are material to the main issue. The development proposed would conflict with Policy 15 of the Lewisham Local Development Framework – Core Strategy (June 2011) and Policy 30 and 31 of the Development Management Local Plan (November 2014) which, among other things, seeks to resist developments that would adversely affect the architectural integrity of a group of buildings as a whole. There is also conflict with the Alterations and Extensions Supplementary Planning Document (April 2019) which, amongst other matters, seeks to avoid the provision of an extra storey on terraced properties where the harmony of the composition would be disrupted.
10. Prior approval applications are not subject to s38(6) of the Planning and Compulsory Purchase Act and therefore the conflict with the development plan does not carry the same force. It is however material to my assessment that the proposal would significantly harm the character and appearance of the area and thus be at odds with these policies.
11. Consequently, the development proposed would cause harm to the external appearance of the terrace and the area in which it is located. This, in accordance with AA.3 (12) of the GPDO, and in so far as it is relevant to the subject matter of the prior approval, would conflict with the objectives of chapter 12 of the National Planning Policy Framework, particularly paragraph 126, which amongst other things, requires the creation of high quality, beautiful and sustainable buildings that add to the overall quality of the area.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

John Gunn

INSPECTOR