



Appeal Decision

Site visit made on 20 June 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2023

Appeal Ref: APP/H5960/D/22/3313647

2A and 2B Freshford Street, Wandsworth, London SW18 3TF

- 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(1) and 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 Mrs Ila Vashee against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2022/3382, dated 9 August 2022, was refused by notice dated 5 October 2022.
 - The development proposed is to construct an additional floor on top of the 3-storey building - 2a & 2b Freshford Street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the application form, omitting wording that is not an act of development. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.
3. Two Daylight and Sunlight Reports have been submitted with the appeal¹. However, given my findings below I have not needed to consider them in my assessment of the appeal.

Background and Main Issues

4. Development is permitted under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO for the enlargement of a dwellinghouse by construction of additional storeys, subject to limitations and conditions, as set out at paragraphs AA.1 and AA.2.
5. During my consideration of the appeal I sought the views of the parties in relation to the wording of Class AA in so far as it specifies 'a dwellinghouse' and the proposed development would be for more than one dwellinghouse. Even though this is not an issue that has been raised by the Council, I am required to consider the matter because any planning permission granted by virtue of Article 3(1) of the GPDO only applies where relevant conditions and limitations are met. Prior approval cannot be granted for a development that falls outside those defined parameters. In such cases an application for planning permission would need to be made to the Council to seek planning permission.

¹ Daylight and Sunlight Study 30 April 2015, Right of Light Consulting; and Daylight and Sunlight Report (Neighbouring Properties) 12 January 2023, Right of Light Consulting.

6. Where a proposal does comply with relevant conditions and limitations, paragraph AA.2(3) of the GPDO sets a requirement that the developer applies for prior approval to the local planning authority. For the reasons set out above, it would only be necessary to consider such prior approval if the proposal meets all other conditions and limitations of the GPDO.
7. In this case, the Council refused to grant prior approval in relation to paragraph AA.2(3)(i) and (ii), making reference to the effect of the proposal on the external appearance of the dwellinghouse and on the amenity of adjoining premises, in relation to outlook.
8. On the above basis, the main issues in this appeal are:
 - whether the proposal meets the permitted development limitations and conditions of Class AA of Part 1 of Schedule 2 of the GPDO, with particular regard to whether the site is a dwellinghouse; and
 - if so, whether prior approval should be granted for the impact on the amenity of any adjoining premises and for the external appearance of the dwellinghouse.

Reasons

9. Paragraph 2(1) of the GPDO states that a dwellinghouse 'does not include a building containing one or more flats, or a flat contained within such a building'.
10. The appeal site is not a flatted development. However, it comprises of two separate dwellinghouses in the form of a pair of semi-detached dwellings. The proposal would introduce an additional storey above each of the two dwellinghouses. Part 1 of the GPDO relates specifically to development within the curtilage of 'a dwellinghouse'. This is a singular term and therefore operations such as upward extensions and/or dormers which straddle the roof of two adjoined dwellinghouses could not be permitted development as it would go outside of the curtilage of both dwellinghouses.
11. I note that the Council determined there was no conflict with Part 1, Class AA of the GPDO in terms of whether Class AA can relate to more than one dwellinghouse in one application. I also recognise that, were each dwelling to be considered separately, there would be no conflict with Part 1, Class AA.1 (g) in that the height of the highest part of the roof would not exceed 3.5m.
12. The appellant has drawn my attention to the use of a Grampian planning condition in an appeal decision to secure the delivery of extensions to more than one property as one operation. I have not been provided with the full details of that appeal. Nevertheless, it did not relate to an application under the GPDO and is therefore materially different to the proposal before me.
13. For the reasons given above, I am unable to find that the proposed development would meet the limitations and conditions of Class AA of Part 1 of Schedule 2 of the GPDO. I cannot therefore conclude that the proposal would be permitted development.
14. As the proposal does not meet the terms of Class AA and therefore would not amount to permitted development, it is not necessary for me to consider the appeal against the detailed assessment criteria in paragraph AA.2(3) with

regard to the effect of the proposal on the amenity of any adjoining premises and the external appearance of the dwellinghouse.

Conclusion

15. For the above reasons, I conclude the proposal would not be permitted development. Therefore, the appeal is dismissed.

A Veevers

INSPECTOR