



Appeal Decision

Site visit made on 17 November 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Appeal Ref: APP/L5240/W/23/3318376

335 Lower Addiscombe Road, Croydon CR0 6RG

- 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 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
 - The appeal is made by Mr Abbas Dattoo against the decision of the Council of the London Borough of Croydon.
 - The application Ref 22/05003/GPDO, dated 1 December 2022, was refused by notice dated 19 January 2023.
 - The development proposed is the erection of an additional floor to comprise 1 x self-contained 3-bedroom flat.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Abbas Dattoo against the Council of the London Borough of Croydon. This application is the subject of a separate Decision.

Preliminary Matters

3. Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building which is in a mixed use.
4. As detailed within the Order, development under Class AA is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval. The local planning authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
5. The provisions of the Order require the local planning authority to assess the development proposed solely on the basis of a limited number of considerations. The Council refused to grant prior approval due to the effect of the development upon the external appearance of the building. I therefore consider this to be the main issue in the appeal.

6. The Order sets out that regard should be had to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Development plan policies can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
7. On 20 December 2023, the Government published its revised National Planning Policy Framework. The Framework represents the Government's up-to-date planning policies for England and how they should be applied. I have had regard to the Framework in reaching my decision.

Main Issue

8. The main issue is whether prior approval should be given, having regard to the resulting external appearance of the building.

Reasons

9. Where any development under Class AA is proposed, development is permitted subject to the condition that, before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to, amongst other things, the external appearance of the building.
10. The appeal property is a four-storey building with commercial units on the ground floor and residential units on the upper floors. It is markedly set back from the roadway, which at this point curves away from the appeal site. This has resulted in an open area of paving which includes seating and a mature street tree. Due to the curvature of the road, the building sits behind the properties to the east on Lower Addiscombe Road, but is roughly on the same building line as the properties to the west.
11. Although there is a variation in building heights, the surrounding area is generally of a lower scale than the appeal building, with a prevalence of two-storey properties, particularly to the commercial properties to the west of the appeal building and the residential properties on Blackhorse Lane which runs northwards to the side of the appeal site. In this context, due to its overall scale and mass, the appeal building is one of the most dominant and prominent buildings in the area.
12. I accept that, as the appellant's technical analysis and evidence shows, that from street level positions that are very close to the building, little, or in some cases, none, of the proposed extension would be visible. This would not, however, apply to longer range views. The CGIs that have been submitted demonstrate the variation in terms of the amount of the development that would be visible relative to the position from which it would be viewed.
13. On my site visit I was able to take in views that were over a greater range than solely those shown in the CGIs that have been provided. These included at a longer-range, views along both Lower Addiscombe Road and Blackhorse Lane. In these views I was able to observe that the existing building is a highly dominant feature in the local area and is clearly visible from long range views.
14. The addition of a further storey to the building, albeit set back from its edges and of a smaller footprint, would nevertheless significantly increase its prominence and dominance. It would greatly accentuate the difference in scale

with the surrounding built environment, and would appear as an incongruous addition to the building, particularly when viewed from longer range views on Lower Addiscombe Road and Blackhorse Lane.

15. I acknowledge that there are some limited examples of taller buildings on Lower Addiscombe Road, most notably at 275 Lower Addiscombe Road. This building is a clear exception to the lower scale of the surrounding buildings. It does not provide justification for allowing the harm I have identified.
16. The appellant makes reference to Policy DM35.1 of the Croydon Local Plan (2018) which outlines that within the Addiscombe District Centre, to ensure that the District Centre characteristics are respected and enhanced proposals should, amongst other things, complement existing predominant building heights of 2 storeys up to 4 storeys and a maximum of 5 storeys around the Lower Addiscombe Road and Blackhorse Lane Junction.
17. In this type of appeal, the development plan does not have its statutory role as is the case in the consideration of a planning application¹. Although the proposed development would not result in the appeal building exceeding 5 storeys, the resultant building would nevertheless exceed the predominant building height in the area. The visual harm caused would not, for the reasons given above, complement the existing building heights in the area, or respect and enhance the area as is required. My reading of the policy is that it requires development to complement existing predominant building heights in the area, and not that any proposals for 5 storeys would be acceptable in this location.
18. I therefore find that the proposed development would cause harm to the external appearance of the building. The proposal would be contrary to the National Planning Policy Framework (2023) in respect of the matter of external appearance and the requirement for good design, and particularly the requirement that developments add to the overall quality of the area and be sympathetic to local character including the surrounding built environment.
19. In terms of their relevance as a material consideration as they relate to the prior approval matters, the proposed development would be contrary to Policies SP4 and DM10 of the Croydon Local Plan (2018) and Policies DM3 of the London Plan (2021) in relation to the requirement that development is of high-quality design by having regard to, amongst other things, the scale and height of the surrounding area.

Other Matters

20. The planning history is set out in the evidence. This outlines how the appeal proposal has been reduced in size and of an amended design from previous schemes. I acknowledge the appellant's efforts to address the previous decisions. I have, however, come to my own view on the appeal proposal. The fact that, what the appellant may perceive as compromises on each application have been made, does not lead me to conclude in favour of the appeal.
21. The appellant outlines how the proposal would provide much needed housing and has considered the development in the context of the housing land supply in the borough.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

22. As the application is not an application for planning permission, these matters are not, however, included in the matters for consideration as set out in the prior approval procedure. As prior approval means that a developer must seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed, the decision maker cannot consider any other matters, such as the provision of housing or the housing land supply, when determining a prior approval application.
23. The appellant has referred to the Kazalbash Judgment where, they outline, that the Court of Appeal found that internal changes without external manifestation couldn't harm an area's character. In this case, the development constitutes an external alteration which would have an external manifestation that impacts on the character of the area. It would not be invisible as the appellant suggests. I therefore give limited weight to the judgement in this appeal.

Conclusion

24. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR