



Appeal Decision

Site visits made on 1 August 2023 and 17 October 2023 by Ifeanyi Chukwujekwu
BSc MSc MRTPI MIEMA CEnv

Decision by Chris Forrett MRTPI, DipTP, BSc (Hons)

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/G5180/D/23/3320005

104A Leaves Green Road, Keston BR2 6DQ

- 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).
 - The appeal is made by Mr Wang against the decision of Council of the London Borough of Bromley.
 - The application Ref DC/22/04611/ASDWEL, dated 17 November 2022, was refused by notice dated 16 January 2023.
 - The development proposed is a first-floor extension over the original footprint of property.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visits were undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Preliminary Matters

4. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) sets out permitted development rights for development consisting of works for the construction of up to one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
5. As detailed within the GPDO¹, 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

¹ Part 1, Class AA, paragraph AA.2(3)

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.

6. The provisions of the GPDO require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations.
7. Development plan policies and the Framework 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.

Main Issue

8. The main issue is whether the proposal would accord with the provisions of Part 1, Class AA, with particular regard to the external appearance of the dwellinghouse and its impact on the amenity of the occupants of 102 and 104 Leaves Green Road with particular regard to light and outlook.

Reasons for the Recommendation

External appearance

9. Paragraph AA.2(3)(a)(ii) of Class AA refers to the external appearance of the dwellinghouse. However, the CAB Housing Ltd judgment² confirmed that the control of the external appearance of the dwelling house is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.
10. The proposal would create an additional floor of accommodation which would be constructed in similar materials, it would not have a window in any wall or roof slope forming a side elevation and the roof pitch of the principal part would be the same as the existing.
11. In my view, the overall height and bulk of the resultant dwelling would not be excessive and as such it would not appear as an incongruous feature upon the property or within the surrounding area. This is particularly the case given that nearby developments largely consist of either two-storey detached properties or bungalows with significant roof alterations, giving the appearance of two storey dwellings.
12. Furthermore, in considering the design and architectural features of the proposal it is noted that the proposed flat roof would replicate the features of the existing building which is a requirement of development under Class AA. While it is acknowledged that the prevailing roof designs in the area are pitched roofs of different forms, a flat roof would not be an alien feature in the area. In coming to that view, I have had regard to the large flat roofed areas of the dormer windows at 102 Leaves Green Road and other properties in the vicinity. I am also conscious of another two-storey flat roofed property (69 Leaves Green Road) which has been drawn to my attention by the appellant.
13. Taking all of these factors into consideration, in summary, I consider that the proposal would be acceptable in terms of its external appearance and would complement the character and appearance of the surrounding area. The proposal would also accord with Policy D4 of the London Plan (2021) and

² CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

Policies 6 and 37 of the London Borough of Bromley's Local Development Framework Local Plan (2019) (the 'LP') in this respect which amongst other matters ensures that proposals for the alteration or enlargement of residential properties should respect the scale, form and materials of construction or complement those of the host dwelling and be compatible with development in the surrounding area.

Amenity of neighbouring properties

14. The appeal site is less than 1 metre away from the flank wall of neighbouring property 102 Leaves Green Road. There are three windows on the elevation facing the appeal property (two bay windows and one flat window in-between) which all appear to serve habitable rooms at No 102.
15. Whilst the two windows closest to the front of the property would have a reasonable distance to the appeal proposal, the rearmost window is located around 2 metres from the proposed first floor element which would be directly in front of this window. Given that this window would directly face a 6.4-metre-high brick wall at approximately 2 metres distance, views from this bay window would be dominated by the flank wall of the resultant dwelling to the extent that there would be little positive outlook from this window. As a result, it would have a detrimental impact on outlook for the occupiers of No. 102.
16. Furthermore, in addition to the overbearing nature of the proposal, it would also result in some overshadowing and loss of daylight and sunlight to this habitable room which would result in further additional harm to the living conditions of the occupiers of No.102. This would largely be as a result of the height and proximity of the extension to this window and its juxtaposition in relation to sunrise through to sunset.
17. Turning to the effect of the development on the occupiers of No.104, the appeal property is set further back than the principal amenity area to the rear of No 104. From this amenity area the first-floor extension would result in a dominant flank wall which would be overbearing and impede on the outlook from this area. This is particularly the case given the depth of the extension alongside the side boundary.
18. In addition to the above there is potential for a tunnelling effect due to the appeal proposal and an existing hedge at No.106. However, I consider that any such effect would not be significantly over and above what would normally be expected in a residential setting such as this. In my view, this would be unlikely to have a significant adverse effect to the extent that it would provide a further compelling reason why permission should not be granted.
19. In summary, the proposal would have a detrimental impact on the living conditions of occupants of 102 and 104 Leaves Green Road with regard to light and outlook. The proposal would also conflict with Policy 37 of the LP which amongst other matters ensures that proposals should respect the amenity of occupiers of neighbouring buildings and those of future occupiers, providing healthy environments and ensuring they are not harmed by inadequate daylight, sunlight or overshadowing.

Other Matters

20. The appellant has expressed concern regarding the Council's consideration of the proposal which they suggest was skewed towards rejection of the

application. However, this is away from the planning merits of the proposal and as such I can give this very little weight in my decision.

Conclusion and Recommendation

21. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, and prior approval should not be granted.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence, and my representative's recommendation, and on that basis the appeal is dismissed.

Chris Forrett

INSPECTOR