



Appeal Decision

Site visit made on 19 February 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/Y5420/W/23/3328014

39 Bracknell Close, Wood Green, Haringey, London N22 5RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Jeff Gillett, The Gillett Macleod Partnership, against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2023/0986, dated 5 April 2023.
 - The development proposed is described as 'application to determine if prior approval is required for the addition of an additional second floor to provide two extra bedrooms and two bathrooms. The pitch of the roof facing the highway has been maintained at its original pitch but raised up.'
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 22nd March 2024.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by the appellant and is the subject of a separate decision.

Preliminary Matters

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) was amended on 31 August 2020 to introduce Class AA to Part 1 of Schedule 2, setting out permitted development rights for development consisting of works for the construction of up to two additional storeys on an existing dwellinghouse that consists of two or more storeys, or for one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
4. The Council failed to carry out the required procedure for the determination of prior approvals as set out in paragraph AA.3 (5) of Class AA, as they failed to notify each adjoining owner of the development. However, the Council notified the occupants of each adjoining property as part of the appeals procedure and representations from each adjoining owner were received in relation to the development. As such, I do not prejudice any party in proceeding to determine this appeal.

5. The Council concluded that the proposal would comply with the conditions and limitations set out at paragraph AA.1 of Class AA, such that it would fall within the scope of permitted development rights, subject to consideration of relevant matters of prior approval. On the evidence before me I see no reason to take a different view. They have however, raised concerns in respect of the effect of the development upon the external appearance of the host property. My consideration of the appeal shall therefore focus on this matter.
6. 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. The Council has referred to various development plan policies. These policies have only been considered insofar as they may be relevant to the context of specific prior approval matters. Therefore, the policies are not determinative of themselves, and the proposal has been considered on its merits in the confines of the prior approval regime.

Main Issue

7. Whether prior approval should be granted having regard to the external appearance of the dwellinghouse.

Reasons

8. The host property, 39 Bracknell Close (No.39) is two storey and positioned within a terrace of six dwellings. In order to accommodate a variance in ground level at the site the ridge heights of the properties are stepped in pairs. Properties in the area are a variety of architectural designs and heights including three storey properties, blocks of flats and pitched and flat roofed terraces. Although the terrace is lacking in architectural detail, the external materials, fenestration and roof form provide a sense of coherence. There is a diversity of built form in the area, however the roof scape of the terrace and neighbouring properties appears relatively unaltered.
9. The overall height of the building would be increased by approximately 950mm, the existing eaves height and fenestration pattern on the front elevation would remain as existing. From the rear, the additional storey would be clearly visible with additional windows at the proposed third floor level. The additional storey would be accommodated in part by altering the plane of the roof to both the front and rear. The increased height of No.39 would disrupt the regularity of the original stepped ridge line. As a result, it would appear taller and more prominent than the other properties in the terrace. The terrace as a whole is read as a block with a horizontal emphasis. Given the modest footprint of the original property, the proposed increased height would result in a horizontal emphasis and would appear visually incongruous in this context.
10. Where prior approval is required in relation to the effect of development on the 'external appearance' of a dwellinghouse, it may be appropriate to not only consider the effect of the development on the property in isolation but also take in to account the wider context of the surrounding area. As detailed above the properties in the area are of varied height, there are examples of three storey buildings adjacent to two storey terraces. This variance in building height is part of a planned arrangement and allows for variance and interest in the built form and accommodation of changing ground levels. However, that

would not be the case in this instance and the additional storey on one dwelling, without any corresponding increase elsewhere, would appear as an irregular and unsympathetic arrangement.

11. In reading the delegated officer report, the analysis does weigh heavily on compliance with national and local planning policy and it is not clear if that distinction between a planning application and a prior approval application was fully appreciated. However, as noted above, development plan policies may be relevant in prior approval cases but only as evidence insofar as the policies relate to the specific matter of prior approval rather than being the sole basis of the planning judgment to be made. Thus, the fact that the Council referred to the development plan does not dictate that its judgement on whether to grant prior approval was fundamentally flawed.
12. In this case the proposal wouldn't accord with the design related aims of Policy D3 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policies DM1 and DM12 of the Development Management DPD 2017. However, whilst I have had regard to the content and aims of those policies they have not been determinative in my decision which has been based purely on the matter of whether to grant prior approval having regard to the external appearance of the dwellinghouse.
13. By introducing Class AA permitted development rights the Government clearly intended a degree of change to residential properties in certain situations. However, that right is qualified by the need to apply for prior approval for a range of matters. When assessing the external appearance of a proposal it is difficult to do so in isolation of the context of the surroundings and I find it is reasonable to take account of the design of the dwelling and neighbouring properties in making my assessment. I have no doubt that there will be situations where an upward extension would be suitable but, for the reasons set out, this is not one of them.
14. Accordingly, I conclude that prior approval should not be granted having regard to the adverse effect on the external appearance of the dwellinghouse and surrounding context and I shall dismiss the appeal.

Other Matters

15. Albert Victoria House and a flat roofed terrace separate the appeal property from Pellatt Grove which is in the Trinity Gardens Conservation Area (CA) the significance of which is partly derived from a lower building density and landscaping which include interconnecting pedestrian routes. The appeal site is within an area of higher density housing that forms a backdrop and contrast to the (CA). Alterations to the roof of the appeal property to allow for an additional floor would remove the cohesion of the built form of the existing terrace and increase its prominence. However, the intervisibility between the appeal site and the CA is significantly diminished due to existing development. In my judgement the appeal proposal would preserve the setting of the CA, the significance of which would not be harmed. A lack of harm in this respect, however, does not alter my overall conclusions.
16. The appellant has provided 69 examples of instances where the Council of the London Borough of Camden have granted Prior Approval for the erection of additional storeys on existing dwellings and 13 examples of where Haringey Council have refused prior approval for additional storey on existing dwellings.

I understand that the appellant wishes to point out a contrast in the approach each Council has taken. However, it is not within my role as an Inspector to comment on this matter.

17. As detailed above the appellant has provided details of 69 examples of where Camden Council have approved applications to increase the height of existing dwellings. Full details of each application have not been provided and so cannot be certain that the circumstances are the same. Some of the examples provided include a location plan and proposed front elevation 55 Fellows Road and 12 Barrington Court are positioned on the end of a terrace and 12 Quickswood and 7 Conybeare are positioned on the corner of conjoined groups of properties. These examples are not mid-terrace and therefore do not directly relate to the appeal property in terms of layout or relationship to neighbouring properties. The two examples of properties that are mid terrace 42 Lamble Street and 61 Ornan Road are flat roofed both as existing and proposed and would not result in the deviation from the original roof form. In any case I have considered the appeal proposal on its own merits.
18. The appellant contends that due to an admin error the proposal had not been fairly or fully assessed by the Council. However, this is a matter between the parties that does not fall within the remit of this appeal. I have therefore given it no weight in my determination.

Conclusion

19. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR