

Appeal Decision

Site visit made on 29 August 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/B5480/D/23/3330157

1A Linley Crescent, Havering, Romford RM7 8RB

- 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 Safat Sufa against the decision of the Council of the London Borough of Havering.
 - The application Ref is J0004.23.
 - The development proposed is described as an “application for prior notification of additional storey to dwelling.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for the enlargement of a dwellinghouse by the construction of additional storeys, subject to limitations and conditions set out in paragraphs AA.1 and AA.2. An application for a determination for prior approval in respect of development permitted under Part 1, Class AA must also be made by the developer.
3. In setting out the conditions, paragraph AA.2 (3)(a) requires before beginning development that the developer applies to the local planning authority for prior approval as to, among other things, (i) the impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, and (ii) the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway. In respect to adjoining premises, the Council’s reason for refusal refers specifically to 1 Linley Crescent.
4. Paragraph AA.3 (3) provides that the local planning authority may refuse the application where it considers that (a) the proposed development does not comply with, or (b) that the developer has provided insufficient information to enable the authority to establish whether the proposed development

complies with the conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.

5. The Council have clarified that the section drawing referenced in the delegated report is drawing no. TA/23/1A/5 Rev A.

Main Issues

6. The main issues are whether the proposal constitutes permitted development under Schedule 2, Part 1, Class AA of the GPDO and, if it does, whether prior approval should be given, having regard to the amenity of any adjoining premises, in particular 1 Linley Crescent, and the resulting external appearance of the dwellinghouse.

Reasons

Whether the proposal would be permitted under the GPDO

7. Paragraph AA.1(h) of Class AA states that development is not permitted if the floor to ceiling height of any additional storey, measured internally, would exceed the lower of (i) 3 metres; or (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse.
8. The planning application form indicates that the proposal would comply with this limitation. Moreover, in the appellant's appeal statement they assert that there would be an increase in height from the ground floor ceiling to the additional floor by 2.6 metres and a less than 3 metres increase in height from the front bay window.
9. However, the submitted drawings do not demonstrate the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse, nor do they include a section drawing or other measurements to demonstrate compliance with this limitation. As such, insufficient information has been provided in order to establish whether the proposed development complies with the limitation stipulated.
10. Consequently, the submission fails to satisfactorily demonstrate that the proposal would comply with paragraph AA.1(h) and, as such, it is not permitted development.
11. However, even if I were to accept the appellant's assertion that the scheme was permitted development, consideration would then need to be given to the prior approval matters.

Whether prior approval should be given

12. Paragraph AA.2(3)(a)(i) of the GPDO requires prior approval as to the impact of the proposal on the amenity of any adjoining premises including overlooking, privacy and the loss of light.
13. The neighbouring property, 1 Linley Crescent, is a two storey semi-detached property, which is sited further away from Linley Crescent than the appeal property. Therefore, the appeal property sits largely alongside the front garden serving No 1, with its rear elevation broadly in line with, and close to,

the front elevation of No 1. Both the appeal property and No 1 are sited close to the shared side boundary of the appeal site.

14. No 1 has two windows, one at ground floor and one at first floor. These windows are close to, and at an oblique angle to the appeal property. The proposed works would increase the height of the appeal building from single storey to two storeys. It would also extend the full depth of the appeal property and would be flush with the side elevation closest to No 1. Consequently, there would be a considerable increase in the height and bulk of the building close to the side boundary of the appeal site and the neighbouring property.
15. Having regard to its height, size and proximity to No 1, the proposed development would result in a visually dominant form of development that would significantly reduce and adversely affect the outlook for the occupiers of No 1 from the ground floor window. The proposed development would not materially affect outlook for occupiers of No 1 from the first floor window, by reason of its height in relation to the proposed development.
16. The orientation, siting and height of the proposed development means that there would be very little overshadowing or loss of light to the ground floor and first floor windows or front garden serving No 1 and then only for a short period of the day. On this basis, there would be no significant loss of light reaching these windows or the front garden as a result of the appeal scheme.
17. Paragraph AA.2(3)(a)(ii) requires prior approval as to the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway. Only the front, principal elevation of the appeal property fronts a highway.
18. The area is characterised by predominately two storey properties, with fenestration detailing at both ground and first floor. Moreover, the built form along Linley Crescent is largely setback away from the highway.
19. The appeal proposal seeks to retain the door and two windows at ground floor in the front, principal elevation of No 1A. However, while a two storey dwelling would, in principle, reflect the prevailing height of the surrounding built development, the submitted plans show a blank front elevation at first floor level.
20. Consequently, the lack of any fenestration at first floor would result in an incongruous form of development that would be harmfully at odds with, and detrimental to, the prevailing character of the area. This harm would be further exacerbated due to the prominence of the appeal scheme as a result of the proximity of the appeal property to Linley Crescent.
21. For these reasons, notwithstanding my conclusions about the effect of the proposal on the loss of light, I conclude that the appeal proposal would result in unacceptable harm on the amenity of the adjoining premises, with particular regard to No 1, in respect of outlook, and on the external appearance of the dwellinghouse.

Other Matters

22. The appellant submitted a cross section plan, drawing no. TA/23/1A/7 Rev A, with this appeal. From the evidence before me, this drawing was not present in the original submission and was not consulted on. Therefore, having regard to the Holborn Studios judgement¹, the appeal has been determined based on the plans and documents submitted with the original application to the Council and upon which the views of interested parties were sought. However, even if I had accepted this plan, the appeal also fails in respect of the prior approval matters for the reasons set out.

Conclusion

23. For the reasons given, I conclude that the appeal scheme would not constitute permitted development under Schedule 2, Part 1, Class AA of the GPDO. In addition, the proposal would also not be acceptable in respect of prior approval matters (i) and (ii) of Paragraph AA.2.(3)(a) of Schedule 2, Part 1, Class AA of the GPDO. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)