



Appeal Decision

Site visit made on 21 November 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2024

Appeal Ref: APP/E5330/W/24/3343496

165-169 Eltham High Street, Eltham, Greenwich SE9 1TT

- 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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Vinesh Aggarwal of Eltham High Street (AGG7) Ltd against the decision of the Council of Royal Borough of Greenwich.
 - The application Ref is 23/2939/PN5.
 - The development proposed is described as "2 no. new self contained units proposed on single floor, with each unit being 50 sqm. each."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description of development stated on the application form, as I have not been made aware of any agreement for any change to it.
3. The appeal is made pursuant to Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). This permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built block of flats, as well as certain associated works.
4. Reason for refusal no. 2 refers to the direction of north on the proposed floor plans, not being annotated, said to be contrary to criterion B(1A) (c) of Class A, Part 20 Schedule 2 of the GPDO. The appellant has submitted a revised floor plan with their appeal with the direction of north annotated. The Council has confirmed that this addresses its reason for refusal no. 2, and as such the proposal would meet the requirement of paragraph B (1A) (c) of Class A. The Council and other interested parties have had the opportunity to comment on that information, and I am satisfied there would be no unfairness to any interested party by accepting what is a relatively minor change to the proposal. Consequently, the appeal has been determined on this basis, with reason for refusal no. 2 no longer being relevant.
5. Paragraph A.1. of Class A, Part 20, Sch. 2 of the GPDO sets out limitations to this permitted development, and Paragraph A.2. requires that before beginning the development, the developer must apply to the Council for prior approval in relation to certain matters. The Council considered that the

proposal meets the requirements of paragraph A.2 of Class A, except for paragraph A.2.(1)(e), relating to external appearance. Based on the evidence before me, I am also satisfied that the proposal would not result in adverse impacts in respect of the other prior approval matters set out in paragraph A.2, and taking into account the above change, I am also content that the proposal would not fall outside any of the limitations and restrictions set out in paragraphs A.1. applicable to development under Class A. I have therefore confined my reasoning to the prior approval matter of external appearance.

6. Paragraph B (15) of Class A, Part 20, Sch. 2 of the GPDO requires that when determining such an application for prior approval, regard should be had to the National Planning Policy Framework (the Framework) as far as relevant to the subject matter of the prior approval. It was also held in *CAB Housing Ltd v SSLUHC & Broxbourne BC* (2023) that external appearance can include the effect on adjoining and nearby properties. The appeal proposal has been determined on this basis.
7. Prior approval applications must not be determined, expressly or otherwise, on the basis of section 38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. As such, I have only had regard to the parts of the development plan, insofar as they are material considerations to the matters of external appearance.
8. Both parties have referred to an appeal decision¹ (the previous appeal decision) that was dismissed earlier this year for prior approval under the same provisions of the GPDO at the appeal property. As no party would be prejudiced by this, I have sought a copy of that decision, and had regard to it in my decision below.

Main Issues

9. Accordingly, the main issue is whether prior approval should be granted having regard to the effect of the proposed development on the external appearance of the building and the area (including the setting of nearby listed buildings).

Reasons

10. The appeal site contains a three-storey building with a commercial use at ground floor, it faces onto Eltham High Street and is flanked to its sides by Roper Street and Archery Road. It has a glazed balustrade above its flat roof on its front and part of its sides. Along High Street are a variety of building types and heights, including some taller buildings, such as nos 145-149 (on the same side of the road), and the Vue Cinema building diagonally opposite the appeal site.
11. Roper Street comprises mainly two storey terraced housing on either side of the road, it is a short 'no through road' with Eltham Church of England School at the end of it. Some of the rear sides of terraced properties that face onto Roper Street can be seen from Archery Road, immediately behind the appeal property, there is also a large community building of modern appearance opposite them.

¹ Ref. APP/E5330/W/23/3329162

12. On the previous appeal decision, two additional storeys of accommodation were proposed, they were also said to have had a similar setback from the front of the appeal property to what is proposed on the current scheme before me. The Inspector on the previous appeal decision found harm in regard to the external appearance of the additional storeys to the appeal building, and its relationship with the nearest two-storey properties behind the appeal site, from both Roper Street and Archery Road. In addition, harm was found to the setting of the Convent of St Mary (a grade 2 listed building opposite the appeal property), although it is noted that no other harm was identified. The previous appeal decision and its findings are a material consideration that directly relates to the appeal scheme before me.
13. Notwithstanding its setback from the front elevation, said to be some 2.4 metres, the additional storey of accommodation would be in a similar design to the existing building, replicating its architectural style, and it would not be higher than some of the nearby properties along High Street. As a result, its appearance from High Street would ensure an acceptable external appearance.
14. Nevertheless, from Roper Street, the increase in height (from three to four storeys), which includes a brick wall, very close to the side of No.12 Roper Street would introduce a wholly dominant feature, significantly higher than the nearby two-storey properties, making a flat roofed bulky building even more conspicuous. From Archery Road, given the orientation, and arrangement of the nearest two storey properties, the effect would be lesser. Although views from Archery Road, taking into account its alignment, would still be of a mainly blank four storey wall, adjoining the much lower terraced housing. It is noted that the proposal has been reduced to one additional storey, compared to the previously dismissed scheme for two additional storeys. However, such a height transition over such a short distance in this case would be stark and jarring, as such the external appearance of the proposed development from Roper Street and Archery Road would be harmful.
15. Whilst the appellant has indicated that the proposal would not be higher than 1.54 metres above the existing building. That calculation refers to the height increase above the glazed balustrade on the front and some of the sides of the building, not its rear side, where the height change would be much greater.
16. The Convent of St Mary is described as an early-mid nineteenth century house, two storeys high, that is said to be very wide, with a low-pitched hipped roof clad in slate above white painted exterior walls. Whilst the building is appreciated on views close to it, particularly from High Street, which would not be affected by the proposal. There are also views of it from both Roper Street and Archery Road and both roads partly lead towards it. Although it is partly offset from the end of these roads, these views are an important part of its setting. The external appearance of the proposal, particularly with it having no set in from its rear or indeed its sides, would significantly add to the bulk and mass of the appeal property, and views of it from Roper Street and Archery Road would be harmful to the setting of this listed building. Having regard to the provision of 2 no. flats, in a well-connected area, said to be starter units, I am not persuaded that the collective public benefits of the proposal would outweigh this identified harm.
17. The appellant has said that the Vue Cinema building already adversely affects the setting of the Convent of St Mary. Whether this be so, I must assess the

proposal before me in terms of its effects. I also have limited information regarding the planning history of that site, and why it was granted planning permission. Moreover, its side-by-side relationship with the Convent of St Mary is different, and not directly comparable to the appeal proposal.

18. Eltham library, located beyond one side of the appeal property is also grade 2 listed, finished in red brick with Portland and Ancaster stone dressings, under a tiled roof. Given the separation from the appeal property and the intervening building, there would be no harm to the setting of that building.
19. To conclude on this main issue, the proposal would harm the external appearance of the building and the area, and it would conflict with paragraph A.2.(1)(e) of Class A, Part 20 Sch. 2 of the GPDO. In addition, the proposal would conflict with paragraphs 135 and 139 of the Framework, that amongst other things require development to function well and add to the overall quality of the area and be sympathetic to local character and for development that is not well-designed to be refused, and paragraphs 205 and 208 that require development to conserve and enhance the historic environment.
20. Although not determinative, the proposal would also be contrary to Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP), and Policies DH1 and H5 of the Royal Greenwich Local Plan, Core Strategy with detailed policies, adopted July 2014 (RGLP), which amongst other things, collectively seek to ensure high quality design that enhances and responds to the local character, in terms of its design, appearance, and form. There would also be conflict with LP Policy HC1 and RGLP Policy DH(i) that amongst other things collectively seek to protect the significance of heritage assets, including their setting.
21. The Council referred to the proposal conflicting with LP Policy D4, that policy is mainly focused on strategic design review and analysis, as such I did not find it to be directly relevant to this main issue.

Other Matters

22. The planning history of the appeal site is noted; however, I have assessed the planning merits of the prior approval application before me.
23. I note the arguments made in favour of the appeal proposal by the appellant, however, given that this is a prior approval application, my determination of the appeal is limited in this case to the matter of external appearance.
24. I have had regard to the objections made by interested parties about the appeal proposal in addition to the main issue above. However, as I am dismissing the appeal for other reasons, and due to the requirements of the GPDO, it has not been necessary for me to address those issues further.

Conclusion

25. For the reasons given above, I conclude that prior approval should be refused, and the appeal be dismissed.

A Hunter

INSPECTOR