



Appeal Decision

Site visit made on 6 December 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/U5930/D/24/3347636

157 Stewart Road, Stratford E15 2BD

- 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 Shayna Begum against the decision of Waltham Forest London Borough Council.
 - The application Ref is 240700.
 - The development proposed is the construction of a new second floor level with a pitched roof to match that of the existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), permits development consisting of the enlargement of a dwellinghouse by construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys.
3. 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.
4. 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 has raised concerns in respect of the effect of the development upon the external appearance of the host property, the failure to submit required information and the failure to comply with the limitations of the Order. I therefore consider these to be the main issues in the appeal.

Main Issues

5. The main issues are therefore whether prior approval should be given, having particular regard to 1) the resulting external appearance of the dwellinghouse, 2) whether required information has been submitted, and 3) whether the development complies with the limitations of the Order.

Reasons

External Appearance

6. The appeal property is a two-storey end of terrace dwellinghouse. It is located in a terrace of 13 properties which are of a uniform scale and similar design. The properties reflect those of the longer terrace opposite where properties are also of a uniform scale and similar design.
7. The Courts have held that, when considering the '*external appearance of the dwellinghouse*' this need not be solely confined to the building in question and may include its wider context or how it relates to the street-scene. Appearance is not a matter to be assessed in a vacuum or in isolation, particularly in this case where the appeal building is located within a terrace of closely related properties. It is therefore reasonable, in the planning judgment under paragraph AA.2(3)(A)(ii), to take account of the effect of the proposed external appearance of the dwellinghouse on the wider character and appearance of the area.
8. The proposed development is to erect an additional floor on top of the existing two storey end of terrace building. The appeal building is seen within a wider terrace of buildings which, together with the terrace opposite, has a consistency and rhythm in terms of height. This gives the street a clear sense of uniformity which positively contributes to its overall character and appearance.
9. In the context of the above, the proposed development would, appear as a high, dominant, bulky and incongruous addition to the appeal building. It would visually disrupt the otherwise homogeneous character of the existing terrace and the sudden increase in height would jar with the remainder of the terrace.
10. Despite the use of matching materials, the proposed development would visually compete with the remainder of the terrace and would materially detract from the consistency and balance afforded to the otherwise lower-level development within the wider terrace.
11. For the above reasons, I find that significant harm would be caused to the external appearance of the building. In this respect, the proposal would not accord with paragraphs 131 and 135 of the National Planning Policy Framework (2024) which seek to create high quality, beautiful and sustainable buildings, and that developments are visually attractive and sympathetic to local character, including the surrounding built environment.

Whether required information submitted

12. Paragraph AA.2(3)(b) requires that before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated.
13. No such information has been submitted in this case and as such the proposed development has failed to comply with one of the necessary conditions.

Whether complies with limitations

14. Paragraph AA.2(2)(c) outlines that development is permitted subject to the condition that the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse. The "principal part", in relation to a dwellinghouse, means the main part of the dwellinghouse excluding any front, side or rear extension of a lower height, whether this forms part of the original dwellinghouse or is a subsequent addition.
15. In Class AA references to a "storey" does not include any accommodation within the roof of a dwellinghouse, whether comprising part of the original dwellinghouse or created by a subsequent addition or alteration, and accordingly, references to an "additional storey" include a storey constructed in reliance on the permission granted by Class AA which replaces accommodation within the roof of the existing dwellinghouse.
16. The Council outline how the roof pitch would remain as existing, though the property has previously been extended under Class B of the Order. The existing dormer is at the rear and at a lower height. Limitation B.1(h) provides that development is not permitted under Part 1, Class B if the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA. In other words, where the Class AA permitted development rights have been exercised to construct an additional storey, Class B does not grant permission for any enlargement of the roof of that additional storey.
17. Given my findings on the other matters of the appeal, a favourable finding on this subject could not, in any event, alter the outcome of the appeal. It would appear, however, that although the roof pitch would be as existing, it would include a dormer window which would not be lawful within this proposed development. It therefore fails to comply with paragraph AA.2(2)(c).

Other Matters

18. The appellant has referred in their evidence to three examples of case law. Although I do not have full details of these cases, they all pre-date the Order. The issues in those cases were not directly comparable to the main issues in this appeal and I therefore give them limited weight.
19. The appellant has referred to developments undertaken at 1 and 5 Burgess Road. Although I do not have full details of these cases, I acknowledge there are some similarities in the form of development. The location is however quite different to the appeal site as there is a notable variation of building heights and designs. Furthermore, the developments appear to have been undertaken simultaneously and with their similar design and siting at each end of the terrace, they create a symmetrical appearance to the short terrace of four properties. This is not the case with the appeal development. They do not lead me to conclude in favour of the appeal.

Conclusion

20. 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