



Officer Report

Application Number:	HGY/2023/1753
Application Type:	Lawful development: Proposed use
Address:	39 Bracknell Close, Wood Green, London, N22 5RE
Proposal:	Certificate of Lawfulness for proposed additional storey under Class AA
Case Officer:	Laina Levassor
Valid Date:	03/07/2023
Applicant:	Mr Jeff Gillett
Agent:	The Gillett Macleod Partnership

RECOMMENDATION

Refuse

PLANNING HISTORY

HGY/2023/0986 - Refuse

Prior approval Part 1 Class AA: Enlargement of a dwellinghouse by construction of additional storeys

Application to determine if prior approval is required for development consisting of works for the construction of an additional storey which extends 1.87m above the existing roof height under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

An appeal has been submitted in response to this refusal under reference APP/Y5420/D/23/3328014. The LPA have not received notification from PINS to confirm this is a valid appeal.

HGY/2022/4540 - Refuse

Prior approval Part 1 Class AA: Enlargement of a dwellinghouse by construction of additional storeys

Application to determine if prior approval is required for development consisting of works for the construction of an additional storey which extends 2.45m above the existing roof height under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

An appeal was submitted in response to this refusal however, due to late submission, this was turned away by PINS.

SITE DESCRIPTION

This application relates to 39 Bracknell Close, a mid-terraced property on the north-western side of Bracknell Close. The application site does not fall within any conservation, however, is sited in

close proximity to Trinity Gardens Conservation Area and is visible from the adjacent Pellatt Grove which forms part of the CA.

BACKGROUND

As noted within the Officer Report for decision references HGY/2022/4540 & HGY/2023/0986, the LPA did notify neighbouring properties as required by Prior Notification procedures. The extract from these reports are as follows:

As required under the Town and Country Planning (General Permitted Development) Order (2015), Schedule 2, Part 1, Section A.4(5), all adjoining neighbours must be notified of the application for Prior Approval. Due to system issues when registering this application as valid, delays in its registration meant the statutory minimum consultation period of 21 days could not be undertaken within the 56-day statutory determination period for this application type. In line with the requirements of such an application made under Class AA, the amenity of all adjoining neighbours and resultant impacts have been considered as part of the assessment of this application.

Although consultations were not undertaken, the applications were refused for the following reasons:

The proposed additional floor by reasons of its height, location, design, size and massing would not achieve an appropriate degree of subordination to the existing building and the terrace in which it is located and would appear an obtrusive and unsympathetic development to the detriment of local visual amenity and harmful to the character and appearance of the area. As such, the proposal would be contrary to Policy D6 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017, Policy DM1 and DM12 of The Development Management DPD 2017.

A full assessment of the merits of these reasons were included within the original reports but are not the subject of this assessment.

Following refusal of these applications, the applicant has asserted that the LPA's omission to consult, invalidated the resultant decisions. The applicant was advised that refusals were issued to avoid deemed consent and advised to provide an assessment of the relevant legislation to support this assertion and the LPA would determine accordingly.

The subsequent LDC submission, does not include supporting legal assessments which are relevant to 'deemed consent'.

RELEVANT PLANNING LEGISLATION

The Town and Country Planning (General Permitted Development) (England) Order 2015 came into force on 15th April 2015 (SI no. 596), consolidating earlier legislation. Schedule 2, part 1 (Class AA) of the Order allows householders to be able to construct an additional storey under permitted development.

Schedule 2, Part 1, Section AA.3 (4) states "Sub-paragraphs (5) to (8) do not apply where a local planning authority refuses an application under sub-paragraph (3); and for the purposes of section 78 (appeals) of the Act, such a refusal is to be treated as a refusal of an application for approval."

Schedule 2, Part 1, Section AA.3 (5) requires applications to be consulted on, unless as above, the application is refused under sub-paragraph 3:

- (3) The local planning authority may refuse an application where, in its opinion—
(a) the proposed development does not comply with, or

(b)the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.

Schedule 2, Part 1, Section AA.2 (3) makes a requirement for an application for prior approval to be made as to; (i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, (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.

ANALYSIS/ASSESSMENT

The applicant infers that the prior approval for an additional storey has deemed consent as no consultations were made. As set out in the relevant sections, the LPA does not have a duty to consult where an application is to be refused where the LPA does not consider it complies with conditions set out in Schedule 2, Part 1, Section AA.2 (3).

This form of development is not entitled to 'deemed consent' without prior approval from the LPA, which has not been approved.

CONCLUSION

The proposal requires prior approval from the LPA which has not been granted and therefore is not considered lawful.

Refusal Reasons:

The proposed development does not constitute permitted development by virtue of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 and is therefore not considered to be lawful.