The Planning Inspectorate

Appeal Decision

Site visit made on 20 April 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2021

Appeal Ref: APP/H1840/W/21/3266807
Pippins Court, 40 Waterside, Evesham, WR11 1BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr Gavin Swinburne against the decision of Wychavon District Council.
- The application Ref 20/02214/GPDA, dated 7 October 2020, was refused by notice dated 11 January 2021.
- The development proposed is 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, detached block of flats.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a two-storey roof extension at Pippins Court, 40 Waterside, Evesham, WR11 1BU in accordance with the application 20/02214/GPDA, dated 7 October 2020, and the plans submitted with it and the conditions in the conditions schedule at the end of this decision.

Application for costs

2. An application for costs has been made by Mr Gavin Swinburne against the decision of Wychavon District Council. This is the subject of a separate decision.

Preliminary Matters

3. Paragraph B (15) of Part 20, Class A of the 2015 Order requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework (the 'Framework'), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of this appeal has been made on the same basis.

4. The principle of the development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan in so far as they are material to the matters for which prior approval is sought.

Main Issues

5. The main issue is therefore whether the development would accord with the provisions of Part 20, Class A of the 2015 Order with regard to the requirement in (e), whether the floor-ceiling height would exceed any storey of the principal part of the existing building. If the requirement in (e) is met then consideration must be given to matters including transport and highways, flooding, external appearance, the provision of natural light in all habitable rooms of the new dwellinghouses, and impact on the existing building and neighbouring premises including overlooking, privacy and loss of light.

Reasons

Requirement under (e)

6. The appeal site is beside the B4035 and the River Avon, from where it is prominent. Pippins Court was granted permission in 2004 in 2 detached blocks: one has three storeys, the other, four. The ground floors have no fenestration, which are used for storage; access to the habitable floors is by steps to the first floor entrances. The roofs are low pitched with hipped ends.

7. The Council's objection is that it has not been fully demonstrated that measured internally the floor-ceiling heights of the new flats would not exceed any storey in the principal part of the existing building. The residents of Pippins Court commissioned their own survey, and the Council did not consider that the applicant's evidence alone demonstrates beyond reasonable doubt, whether the requirements of (e) have been met.

8. The appellant indicates that initial drawings were based on the historic planning application and were found to be inaccurate. Therefore, a full laser survey of both buildings was undertaken in accordance with RICS guidance and submitted in November 2020. The measurements were undertaken on 3 different days. Photographs have been supplied showing the survey in progress at various points in the buildings. The survey showed the height at 2.15m and the proposal was amended to comply. I consider this survey to be robust.

9. I therefore conclude that on the balance of the submitted evidence, the proposal would comply with the requirement under (e).

Transport/highway, living standards, external appearance and other impacts

10. Pippins Court has 20 parking spaces for the 13 existing dwellings. The proposal is for 10 more dwellings without additional parking. However, it is very close to a bus stop with good services to the nearby town centre. As I noted on my site visit there are also roadside footpaths and good pedestrian connections to a wide range of everyday facilities in the area. The residents would therefore not be reliant upon car use and undue pressure would not be put on the parking spaces. In any event parking restrictions to the B4035 road would prevent unsafe parking and any pressure on street spaces further afield would be unlikely to be significant. Whilst noting the content of the Streetscape Design Guide, and paragraphs 108, 109 and 110 of the Framework, I conclude that the proposal would not jeopardise highway safety and note the Council's Highways Officer had a similar view.

11. The new dwellings would look out over a long view, rather than down, and overlooking to the existing flats and the caravans below, would not be

significant. The nearest flats have bedrooms and bathrooms so any reduction in light levels would result in very limited impact on their habitation.

12. The caravan site does not have permanent dwellings but rather holiday use between April and October. The additional storeys will cause some shadowing, but the caravans do have an open outlook from other aspects and would continue to have some natural light. Paragraph 127 of the Framework does promote health and wellbeing, but I find that the proposal would not significantly impair living standards.

13. The development would be substantially above the nearby river; the Environment Agency and the Council had no objection in this respect. It would also not impact on any protected view.

14. The proposal would replicate the existing floors to enlarge the two blocks. Thus, elevationally the appearance would only significantly change by its enlargement of the same.

15. I note the Council's references to paragraphs 124, 127 and 130 of the Framework and I understand the concern that the increased height of the proposed building may appear incongruous in the street scene, but the permitted development right is expressly intended to allow a building to be extended by up to 2 storeys. While this may result in a seemingly tall building but that is an inevitable consequence of the permitted development right. Acceptance of such height is implicit in the introduction of the permitted development right, which supports the Government's objective of significantly boosting the supply of homes. A difference of up to 2 storeys from the prevailing height has therefore to be interpreted as not inconsistent with the area for the purposes of this prior approval.

Conditions.

16. Planning permission granted for development under Article 3(1) and Schedule 2, Part 20, Class A of the 2015 Order is subject to conditions set out in paragraph A.2 of that Class, these are replicated in the schedule below. The Council recommend conditions, some of which are similar with those in the above paragraph. Other conditions such as ecological enhancement, electric charging, bicycle storage and surface/foul water disposal would relate to a planning application rather than a prior approval and are not necessary.

Conclusion

17. I therefore conclude that the appeal should be allowed, subject to the conditions in the conditions schedule overleaf.

John Longmuir

INSPECTOR

CONDITIONS SCHEDULE

1) The development must be completed within a period of 3 years starting with the date of this decision.

2) 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 occupiers of the building and adjoining owners or occupiers will be mitigated.

3) The developer must notify the local planning authority of the completion of the development as soon as practicable after completion in writing including the name of the developer, address or location of the development and date of completion.

4) Each new dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended) and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

END OF SCHEDULE