



Appeal Decision

Site Visit made on 15 June 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/W1905/W/20/3265298

31 Gaywood Avenue, London EN8 8QE

- 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, Paragraph AA.2.(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Chaim Bard, Cab Housing Ltd against the decision of Broxbourne Borough Council.
 - The application Ref: 07/20/0813/P4D, dated 14 September 2020, was refused by notice dated 11 November 2020.
 - The development proposed is described as prior approval for construction of an additional floor above the principal part of the house to add additional living space to the existing dwelling house.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for an award of costs was made by Mr Chaim Bard, Cab Housing Ltd against Broxbourne Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description in the banner heading above is taken from the appeal form and decision notice, in the interests of clarity.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 1, Class AA of the GPDO.

Reasons

5. Under Schedule 2, Part 1, Class AA, Condition AA.2.(3)(a) of the GPDO, it is necessary to assess factors including (i) the proposal's impact on the amenity of adjoining premises and (ii) the external appearance of the dwellinghouse.
6. Condition AA.2.(3)(a) criterion (ii) sets out that external appearance of the dwellinghouse *includes* the design and architectural features of principal elevation of the dwellinghouse, and any side elevation of the dwellinghouse that fronts a highway. This does not preclude consideration of other factors which are relevant to the visual impression that the dwellinghouse makes, such as the design and architectural features of other elevations. In the current

case, the design and architectural features of the proposed rear elevation is one of the factors relevant to assessment of the external appearance of the dwellinghouse.

7. Condition AA.2.(3)(a) criterion (i) sets out that amenity factors *include* overlooking, privacy and the loss of light. This does not preclude consideration of other factors relevant to amenity. Regarding the scope of amenity, criterion I) of Policy EQ1 of the Broxbourne Local Plan (2020) is a useful reference point. This includes outlook of neighbouring occupiers. In the current case, whether the proposal would have an overbearing effect on the outlook of occupants of neighbouring dwelling No 29 Gaywood Avenue is one of the amenity factors that is relevant to assessment of the proposal's impact on adjoining premises.
8. The appeal property is a detached single storey dwelling within a mainly residential area. It is part of a cluster of bungalows of some architectural diversity, situated towards the end of a cul-de-sac road. There is a mix of terraced rows of two storey dwellings to the south and east of the appeal site, rows of semi-detached two storey dwellings to the west and rows of bungalows to the north and south east. This mix includes various extensions and some juxtaposition of bungalows and two storey properties. Pitched gable roof forms of various height and size constitute the predominant roof style. As such, the context is an area of mixed twentieth century suburban residential character with some variety of building form, size and style. A street tree to the west of the site adds to the streetscene and softens views from the west.
9. The appeal site has a somewhat individualistic character, given its relatively wide front and rear elevations, and concentration of garden space to its sides and front. It has a relatively narrow strip of rear garden space, adjacent to the side boundary of adjoining property No 29. Also, as neighbouring rows of buildings do not flow closely on from its side elevations, and it is a detached property among a mix of mainly terraced and semi-detached dwellings, it is somewhat atypical of its locality.
10. Within this context, viewed from the front and sides of the building, the proposed enlarged two storey, pitched roof dwelling would assimilate with the locality's mixed suburban residential character, which includes two storey dwellings and some juxtaposition of bungalows and two storey houses. The site would continue to have a somewhat individualistic character. Also, the nearby street tree would also have a softening effect on views of the western side elevation from the street.
11. Regarding the receivable light aspect of amenity, the boundary wall on the appeal site's northern perimeter casts some shadow to the north. This wall would be retained, with its shadowing effect. The substantial gap between the eastern elevation of No 31 Gaywood Avenue and the side elevation of No 33 would not be reduced and so daylight and sunlight access to the No 29 via that gap would endure.
12. Furthermore, the Sunlight and Daylight assessment by the appellant's consultant engineer sets out that while daylight and sunlight to the windows and garden of No 29 would be reduced by a small amount, they would remain well above the minimum recommended by the BRE Guide¹. I see no reason to

¹ Site Layout and Planning for Daylight and Sunlight, A guide to good practice, Second Edition (Building Research Establishment, 2011).

- doubt the accuracy of this assessment. Given the above, the proposal would not significantly reduce daylight and sunlight to the adjoining premises. Therefore, within the suburban residential context, the proposal would not harm the amenity of adjoining premises in terms of receivable light.
13. Regarding privacy, the obscure glazed, unopenable nature of the rear windows of the proposed first floor storey would avoid overlooking and loss of privacy of adjoining premises. Perceptions to the contrary would not alter this actuality. Therefore, the proposal would not harm the amenity of adjoining premises in terms of overlooking and privacy.
 14. However, the proposed heightened bulk of the building, in combination with its substantial width of around 19.3m close to No 29's side boundary would appear over dominant, viewed from the rear, from neighbouring garden space to the north. Moreover, the extent of the row of five adjacent sets of obscure glazed windows across the first floor level of the proposed rear elevation would stand out discordantly within the residential suburban scene. This would draw further attention to the bulk of the proposed enlarged building, and contribute to its visually jarring impact.
 15. The above adverse impacts would largely be contained to views of the proposed rear elevation from neighbouring premises, and so would be relatively localised. Nevertheless, given the substantial width of the proposed building mass and its close proximity to No 29, the impact would be substantially discordant in terms of both appearance and outlook, viewed from neighbouring premises.
 16. Therefore, the proposal would result in development that would have an adverse impact on the amenity of adjoining premises and the external appearance of the dwellinghouse. The use of exterior materials matching the existing building would not negate the adverse impacts of the enlarged mass.
 17. Subsequent to the Council's decision on the planning application in this case, a lawful development certificate was granted for a rear dormer roof extension to the existing building². The appellant indicates that they intend to erect the dormer extension under Part 1, Class B of the GPDO should the appeal fail. This other scheme, as illustrated in the appellant's Written Statement³, would entail a dormer on part of the rear roof slope. This differs from the appeal proposal as it would not entail an additional first floor storey across the full footprint of the building, with associated additional increase in bulk and ridge height. As such, the appeal proposal would entail a significant step up in scale of building and associated impacts, compared to the potential dormer scheme. Thus, the dormer scheme carries limited weight in this case.
 18. In conclusion, the proposal would not be permitted development under Schedule 2, Part 1, Class AA of the GDPO, with specific regard to criteria (i) and (ii) of condition AA.2.(3)(a).

Conclusion

19. For the above reasons the appeal is dismissed.

William Cooper INSPECTOR

² Application Ref: 07/20/1197/LDP.

³ Page 11.