



Appeal Decision

Site visit made on 12 April 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/N4720/D/21/3267819

5 & 6 Miles Hill Square, Miles Hill, Leeds, LS7 2EN

- 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 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 Mr G White against the decision of Leeds City Council.
 - The application Ref 20/07668/DPD, dated 19 November 2020, was refused by notice dated 14 January 2021.
 - The development proposed is the Prior Approval for enlargement of a dwellinghouse by construction of additional storey; the development will go 2.65m above the highest point of the existing roof.
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for 'Prior Approval for enlargement of a dwellinghouse by construction of additional storey; the development will go 2.65m above the highest point of the existing roof' at 5 & 6 Miles Hill Square, Miles Hill, Leeds, LS7 2EN, in accordance with the application Ref 20/07668/DPD, subject to the conditions set out in section AA.2 of Class AA.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by Mr G White against Leeds City Council. This application is the subject of a separate decision.

Preliminary Matters

4. The description of development in the banner heading and decision above is taken from the appeal form and the Council's refusal notice. This is more succinct than the description in the application form, while it also removes superfluous information. I do not consider that any party has been prejudiced by my approach.
 5. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO),
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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, together with any reasonably necessary engineering operations.

6. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority.
7. The National Planning Policy Framework (the Framework) and Development Plan policies, including supplementary guidance, can be considered relevant in prior approval cases but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
8. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been taken into account in the appeal decision.

Main Issues

9. The main issues are whether prior approval should be granted for the external appearance of the dwellinghouse, and whether the proposal complies with the condition in paragraph AA.2.(3)(b) with regards to the submission of a report for the management of the construction of the development.

Reasons for the Recommendation

10. The appeal site consists of a pair of semi-detached two-storey dwellings in a prominent location at the head of a short cul-de-sac. The street consists of two other pairs of semi-detached dwellings, one on each side of the cul-de-sac. The site lies in a residential area that is characterised predominantly by two-storey semi-detached and terraced dwellings, although there are three-storey blocks of flats opposite the entrance to the street. The properties in the street are built to a very similar design, with Nos 2 and 4 having minor differences to the front elevation. Overall the street has a cohesive appearance and rhythm which makes a positive contribution to the character of the area.
11. Paragraph AA.2.(3)(a)(ii) of Class AA requires prior approval to be sought for 'the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principle elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' The use of the word 'including' means that the lists that follow are not exhaustive and that other factors could affect the external appearance of the dwellinghouse. Furthermore, the wording of (aa) and (bb) suggests that some assessment should be made of how the dwellinghouse would appear in the street scene, as otherwise alterations could be made to the design and architectural features that could be considerably at odds with the surrounding area.
12. The proposal would add an additional storey to Nos 5 and 6. The extension has been designed with matching features and materials to the existing building. The scale and pitch of the roof would remain unchanged and the addition of an extra storey would not alter the proportions of the building to such an extent

- that would detract from the appearance of the pair of dwellings which would retain a symmetrical appearance.
13. The street and surrounding area are predominantly characterised by two-storey residential dwellings, although there is a complex of three-storey blocks of flats opposite Miles Hill Square. While the proposal would result in a three-storey building that would be at odds with the predominant character, given the location of the appeal site at the head of a cul-de-sac it would not have a harmful effect on the appearance of the area. The proposal would preserve the symmetry of the the cul-de-sac, with the three-storey building flanked by a two-storey pair of semi-detached dwellings on either side.
 14. Whilst the proposal would change the character of the block, not all change is harmful and the proposed design would reflect the features and symmetry of the dwellings and would retain symmetry in the wider block due to the position at the head of the cul-de-sac. Consequently, I find that the appearance of the dwellings would be acceptable and the proposal would accord with the requirements of paragraphs AA.2.(2) and AA.2.(3)(a) of Class AA.
 15. I have taken account of the requirements of the Framework and the Development Plan insofar as they relate to the subject matter of prior approval. However, given that I have found that the proposal would not cause harm to the appearance of the dwellings and surrounding area I am satisfied that there is no conflict with relevant design related policies.
 16. The appellant did not submit a report for the management of the construction of the development as part of the application for prior approval. However, paragraph AA.2.(3)(b) of Class AA only requires such a report to be submitted to the Council before the beginning of development. Furthermore, paragraph AA.3.(2) sets out the documentation that must accompany an application for prior approval, and a construction management report is not included in the list. As such, the report does not have to be submitted with the prior approval application, and the proposal would accord with paragraph AA.2.(3)(b) as long as such a report is submitted before the development has commenced.

Conditions

17. Standard conditions are set out in paragraph AA.2 of Class AA, whilst paragraph AA.3.(15) allows further conditions to be imposed that are reasonably related to the subject matter of the prior approval.
18. The Council suggested a number of conditions which mirror the conditions set out in paragraphs AA.2.(2)(a) and AA.2.(3)(b), (c) and (e). As these conditions are automatically applied to prior approvals in Class AA it is not necessary to attach them as separate conditions.

Conclusion

19. For the reasons given above the proposal would conform to the requirements and criteria of Schedule 2, Part 1, Class AA of the GPDO. Furthermore, the proposal would satisfy the aims of the Framework and the Householder Design Guide (April 2012) insofar as they relate to the character and appearance of the original property and the surrounding area.

20. Having regard to the above, and taking account of all other matters raised, I recommend that the appeal should be allowed and prior approval granted, subject to the conditions set out in Schedule 2, Part 1, Class AA of the GPDO.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed and prior approval granted subject to the conditions set out in Schedule 2, Part 1, Class AA of the GPDO.

Chris Preston

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan drawing no. (02)01, Site Plan and Plans As Proposed drawing no. (20)01 revision C, Sections and Elevations As Proposed drawing no. (20)02 revision A.
- 3) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated January 2020, by Ward Cole Consulting Engineers, reference number 19/707 and the following mitigation measures detailed within the FRA: a) Finished floor levels are set no lower than 15.30m above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

- 4) No development above slab level shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local

Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied.

- 5) No development shall take place above slab level until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.
- 6) No development shall take place above slab level until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. These details shall include a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species; b) an implementation and phasing programme; c) existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction; d) means of enclosure; e) car parking layouts and materials. Development shall be carried out in accordance with the approved details.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved implantation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the Local Planning Authority.
- 8) The bathroom window opening on the side elevation at first floor level shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.