



Appeal Decisions

Site visits made on 7 December 2021 and 25 January 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal A: Ref: APP/R0660/D/21/3281607

Sarnia, Giantswood Lane, Somerford Booths, Congleton, CW12 2JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under 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 and Mrs Matthew Worth against the decision of Cheshire East Council.
 - The application Ref: 21/2534C dated 6 May 2021, was refused by notice dated 7 June 2021.
 - The development proposed is: Prior approval for an additional storey to the dwelling.
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Appeal B: Ref: APP/R0660/D/21/3288341

Sarnia, Giantswood Lane, Somerford Booths, Congleton, CW12 2JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under 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 and Mrs Matthew Worth against the decision of Cheshire East Council.
 - The application Ref: 21/4975C dated 13 September 2021, was refused by notice dated 5 November 2021.
 - The development proposed is: Prior approval for an additional storey to the dwelling.
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Appeal C: Ref: APP/R0660/D/21/3288342

Sarnia, Giantswood Lane, Somerford Booths, Congleton, CW12 2JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under 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 and Mrs Matthew Worth against the decision of Cheshire East Council.
 - The application Ref: 21/4729C dated 9 September 2021, was refused by notice dated 5 November 2021.
 - The development proposed is: Prior approval for an additional storey to the dwelling.
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Decisions

1. **Appeal A:** The appeal is allowed, and prior approval granted under the provisions of 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 GPDO) for an additional storey to the dwelling at Sarnia, Somerford Booths, Congleton, CW12 2JN, in accordance with the terms of the

application Ref: 21/2534C dated 6 May 2021, subject to the following additional condition:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4056-00-11 Proposed Site Plan, and 4056-00-13 Proposed Plans and Elevations.
2. **Appeal B:** The appeal is allowed, and prior approval granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an additional storey to the dwelling at Sarnia, Somerford Booths, Congleton, CW12 2JN, in accordance with the terms of the application Ref: 21/4975C dated 13 September 2021, subject to the following additional condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4056-02-21 A Proposed Site Plan, 4056-02-22 Proposed Block Plan, and 4056-02-23 Proposed Plans and Elevations.
3. **Appeal C:** The appeal is allowed, and prior approval granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an additional storey to the dwelling at Sarnia, Somerford Booths, Congleton, CW12 2JN, in accordance with the terms of the application Ref: 21/4729C dated 9 September 2021, subject to the following additional condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4056-01-21 A Proposed Site Plan, 4056-01-22 Proposed Block Plan, and 4056-01-23 Proposed House Plan and Elevations.

Application for Costs (Appeal C)

4. An application for costs was made by Mr and Mrs Matthew Worth against Cheshire East Council in respect of Appeal C Only (LPA Ref: 21/4729C). This application is the subject of a separate Decision.

Procedural Matters (Appeals A, B & C)

5. The appeals are mutually exclusive, being alternative schemes for an additional storey to the dwelling. The proposals in Appeals B & C were submitted in response to the refusal of the scheme put forward in Appeal A in an attempt to address the Council's concerns. Following my initial site visit for Appeal A on 7 December 2021 the appellants indicated that they wished the two later appeals to be linked to Appeal A and considered together. Accordingly, I carried out a second site visit on 25 January 2022.
6. As well as the proposed first floor addition the submitted plans show ground floor extensions to the dwelling and a detached garage/store. These are stated

to be indicative of the appellants' intentions to exploit Classes A, D and E permitted development rights should these appeals be allowed. None of these other extensions intersect with or adjoin any part of the proposed Class AA development. I have therefore restricted my consideration of these appeals to the prior approval for the addition of an extra storey.

Main Issues (Appeals A & C)

7. The proposals were considered as prior approval applications within the parameters of the General Permitted Development Order (The GPDO). With regard to Appeals A & C the Council concluded the proposals would meet all the qualifying criteria, limitations and conditions of GPDO AA.1 and AA.2 with the exception of sub-paragraph AA.2(3)(a)(ii) relating to the external appearance of the dwellinghouse (including the design and architectural features of the principal elevation and any elevation which fronts a highway). Based on the evidence I find no reason to disagree, and therefore the one main issue in Appeals A & C is whether prior approval should be given with specific regard to the external appearance of the dwelling.
8. With regard to Appeal B, the Council says the proposal does not meet all the limitations of GPDO AA.1, is not therefore permitted development, and as such the various matters requiring prior approval under GPDO AA.2 do not apply. The main issues in Appeal B therefore are firstly, whether the proposal amounts to permitted development under Class AA of the GPDO; and secondly, whether prior approval should be given with specific regard to the external appearance of the dwelling.

Reasons

9. The appeal property is a modest-sized detached bungalow being part of a small, loose cluster of dwellings in a rural location. The properties to either side of 'Sarnia' are separated from it by part of a field, which wraps around three sides of the plot. The site is within open countryside but is not subject to any of the statutory designations listed in Class AA as being excluded from the permitted development rights for additional storeys.
10. In all three appeals the proposal involves the construction of an additional storey over the main part of the dwelling with a new roof to the same pitch as the existing. The resultant dwelling would be 2.68m taller than the existing. There would be no new windows in either side elevation, and the additional storey would be supported on existing load bearing walls and beams. Materials would match the existing. It would also involve the upwards extension of existing chimneys to correspond to the proposed roof height.

Reasons - Appeals A & C

11. GPDO sub-paragraph AA.2(3)(a)(ii) requires prior approval to be obtained for the external appearance of the dwellinghouse, including the design and external features of the principal elevation and any side elevation that fronts a highway. As no side elevation fronts a highway, I shall confine my considerations to the front elevation.
12. The Appeal C proposals differ mainly in the design of the front elevation. Changes include the omission of the ground floor porch and canopy, a window above the front gable projection, and replacement of a recessed panel at first floor level with a window.

13. In its one reason for refusal the Council says the proposed development would be a disproportionate addition to what currently exists on site and would harm the character and appearance of the open countryside. However, the GPDO wording suggests the assessment is confined to the external appearance of the dwelling, rather than its effect on the wider area. Even if a wider interpretation of the matter is taken, the principle of an upwards extension to form two storeys is established by the GPDO, and the matters requiring prior approval need to be interpreted in that context. In any event, I find no evidence to demonstrate that the size of the dwelling *per se*, would be harmful to the character and appearance of the countryside.
14. I accept that the addition of a second storey would make the resultant dwelling very significantly larger than the existing bungalow. However, this flows inevitably from the permitted development right under GPDO Class AA. The question of whether an extension is disproportionate or not is not therefore a relevant material consideration, and cannot, on its own, provide a reason to withhold prior approval.
15. The second part of the reason for refusal states that 'the detailed design would result in a dwelling which appears lopsided and haphazard'. Most of the Council's concerns in this regard relate to the fenestration, canopy above the bay window, porch, and a narrow window below the eaves (although the last three of these elements were only feature in Appeal A). However, I consider these to be relatively minor matters of architectural detail which alone are insufficient to render either proposal unacceptable. In any event, the existing bungalow has no symmetry in its main elevation, with windows of differing sizes and designs, and has a forward projecting gabled element to one side. I do not agree that the dwelling would appear lopsided or haphazard, and the Council has not identified why this lack of symmetry would be harmful.
16. The appellant has referred to other Council decisions and appeal decisions where the provisions of Class AA with regard to external appearance were interpreted very narrowly and confined solely to the appearance of the dwelling in isolation. However, analysis of whether that appearance is acceptable is intrinsically linked to its surrounding context and is a valid consideration. What may be appropriate on one site may not be on another.
17. The surrounding area is predominantly rural, and the scattered dwellings along Giantswood Lane are individual and tend not to relate to each other. They vary significantly from modern bungalows to large, detached houses and farmsteads; are of various ages, designs, and materials, and there is no overall unity or common theme. In this context I consider the proposed additional storey and the resultant appearance of Sarnia would not be out of place given the diversity of dwelling types in the area.
18. Paragraph AA.3 (12) requires the local planning authority to have regard to the *National Planning Policy Framework* (the Framework) insofar as relevant to the subject matter of the prior approval, as if the application were a planning application. Overall, I find the proposal consistent with the general objectives concerning high quality design and achieving well-designed places set out in the Framework.
19. I therefore conclude that the proposed development would comply with the conditions, limitations, and restrictions set out in paragraphs GPDO AA.1 and AA.2 and that prior approval should be granted.

Reasons - Appeal B

20. There is a shallow single-storey projection to one side of the front elevation which is separately roofed and is this part is therefore at a lower height than the main ridge over the remainder of the dwelling. In contrast to the designs in Appeals A & C, Appeal B indicates that this forwards projection would be continued upwards terminating in a front-facing gable.
21. Sub-paragraph AA.1(i) says Class AA development if not permitted where any additional storey is constructed other than on the principal part of the dwellinghouse. Paragraph AA.4 provides further interpretation on this matter, stating that: *The principal part 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*.
22. As the front projection is at lower height, the Council says part of the additional storey would thus be constructed on part of the dwelling which is not defined as the principal part of the dwelling. As such it says this limitation is not met.
23. However, the current dwelling is uniformly single-storey with the single-storey projection forming part of the dining room. It is clearly within the main part of the dwelling and is part of the layout and design of the original dwelling.
24. The appellant refers to a similar case at 'Hillside' in Gawsworth¹ where prior approval of a resubmitted proposal for an additional storey was granted by the Council. The appellant has supplied plans of that scheme which show that whilst the dwelling was of single-storey height, it included various ridge heights over different parts of the dwelling. Prior approval was granted for an additional storey above part of the existing bungalow, including a section with a lower ridge covering a narrower element. In that case the extension 'at lower height' was to the side of the dwelling rather than at the front, but it seems to me that valid comparisons can be made with the proposals put forward in the appeal scheme.
25. It is evident that the definition of 'principal part' is open to interpretation and although I do not have full details of the 'Hillside' case, the Council appear to have reached a different view in the case of the 'Sarnia' application. Overall, I favour a pragmatic approach. The forward projection is very modest, is part of the original design and layout, and on balance I consider the proposal would satisfy the limitation in sub-paragraph AA.1 (i).
26. I now need to address the various matters requiring prior approval. Other than the upwards extension of the gabled dining room projection, the design is very similar to that proposed in Appeal C, and excludes the porch and canopy shown in Appeal A. For the reasons addressed above I am satisfied that the scheme represents an acceptable design solution and meets all the conditions of sub-paragraphs AA.2(3)(a)(i)-(iv), including the external appearance of the dwelling house.
27. I therefore consider the proposed development may be considered as permitted development under Class AA, and would comply with the conditions, limitations, and restrictions set out in GPDO AA.1 and AA.2. As such, prior approval should be granted.

¹ Prior Approval application Ref: 21/2919M

Conditions

28. The GDPO says prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. For the avoidance of doubt and for clarity I have imposed a plans condition. Prior approval is also subject to a number of conditions prescribed in the GPDO. It is not necessary to repeat these within the formal decision, but to assist the parties, these are summarised below.
29. Sub-paragraph (2)(a) requires materials used in the exterior work to be of a similar appearance to those used in the existing dwellinghouse; (b) precludes windows in any wall or roof slope forming a side elevation; (c) requires the roof pitch of the principal part of the dwellinghouse to be the same as that of the existing house; and (d) requires that following the development, the dwellinghouse must be used for no other purpose than that falling within Class C3 of the Use Classes Order.
30. Sub-paragraph (3)(b) specifies that before beginning the development, the developer must provide a report for the management of the construction, including hours of operation and measures for the mitigation of any impacts of noise, dust, vibration, and traffic on adjoining occupiers. The development must be completed within three years of prior approval being granted to accord with sub-paragraph (3)(c), and notification of the completion of development are required under (3)(d) and (e).

Conclusion

31. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeals should be allowed, and prior approval granted in each case.

Nigel Harrison

INSPECTOR