



Appeal Decision

Site visit made on 7 February 2022

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2022

Appeal Ref: APP/A0665/D/21/3280880

The Annexe, Pump Cottages, Brown Heath Road, Christleton, Chester, CH3 7PN

- 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(1) 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 Clarke against the decision of Cheshire West and Chester Council.
 - The application Ref 21/01804/PAA, dated 21 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is the addition of a single storey to an existing dwellinghouse.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. At the start of February 2021, after the appeal had been made, the High Court issued a judgement¹ regarding the interpretation of Class AA of Part 1 of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)* (GPDO). Both parties were given the opportunity to comment on the relevance of this judgement to their cases.

Background and Main Issue

3. The appeal proposal is submitted as a prior approval under Schedule 2, Part 1, Class AA of the GPDO. This allows the enlargement of a dwellinghouse by the construction of additional storeys subject to limitations and conditions.
4. There is no dispute between the parties with regard to the compliance of the scheme with all criteria in paragraph AA.1, paragraph AA.2(2) and AA.2(3)(a)(i), (iii) and (iv). Based on the evidence before me, and the observations I made at my site visit, I have no reason to take a different view in terms of the scheme's compliance with these particular paragraphs. Therefore, the focus of my determination of the appeal has been the area of difference between the parties which relates to paragraph AA.2(3)(a)(ii).
5. In the light of this, the main issue in the appeal is whether prior approval should be granted having particular regard to the resulting external appearance of the dwellinghouse.

¹ CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

Reasons

6. The appeal property is a flat roof single storey dwelling attached to the side elevation of No 1 Pump Cottages. It is stated that it originally served as a garage to this property but has been converted first to a residential annexe and then a separate unit of accommodation. Nos 1 and 2 are a pair of 2 storey cottages with pitched roofs. Together, with the appeal property they stand at the end of a row of 7 bungalows, with fields being located at either end of the row of dwellings. A mixture of dwellings and open fields lie opposite.
7. As the appeal property and its attached neighbours are positioned much closer to the road than the bungalows, unlike many houses in the vicinity, they are relatively prominent dwellings in the street scene.
8. Paragraph AA.2(3)(a)(ii) of the GPDO requires that prior approval should be sought for the external appearance of the dwellinghouse, including the design and architectural features of (aa) any principal elevation and (bb) any side elevation that fronts a highway. The side elevation of the appeal building does not front the highway and so in this case it is only any principal elevation that needs to be assessed.
9. The appellant argues that the wording of Paragraph AA.2(3)(a)(ii) means that the only relevant consideration is the 'design and architectural features' of the front elevation and that it does not empower the decision-maker to assess the development in its wider context. However, the use of the word 'including' in the paragraph means that the list that follows is not exhaustive and so other factors may affect the external appearance of the dwellinghouse. Moreover, 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.
10. In this case as the appeal property is attached to other dwellings, I consider it is neither sensible nor appropriate to consider the external appearance of the dwellinghouse in isolation, as the attached dwellings in particular are an aspect of the building's external appearance. This approach, of having reference to neighbouring properties and the locality, was confirmed as appropriate by the recent High Court judgement referred to above.
11. The appeal property currently has a simple form and design. The proposed additional storey would have a flat roof and would be rendered to match the existing dwelling. Like the current dwelling it would have little in the way of architectural detailing.
12. However, the proposal would appear particularly incongruous in relation to Nos 1 and 2 Pump Cottages, as the height of the resulting dwelling would be significantly greater than the eaves level of these attached houses, and it would obtrusively project beyond the pitch of the roof plane. It would therefore be a visually dominant and unsympathetic addition to this row of houses.
13. As a result, the proposal would unacceptably harm the character and appearance of the area and it would conflict with the advice in section 12 of the *National Planning Policy Framework* which promotes the creation of high quality buildings and places, and requires that developments are visually attractive and sympathetic to local character.

14. Consequently, I consider that the external appearance of the dwelling would be unacceptable and the proposal would be contrary to the requirements of paragraph AA.2(3)(a)(ii). As such, prior approval should be refused.
15. My attention has been drawn to an appeal decision² in which the Inspector commented that 'the GPDO wording suggests a relatively narrow assessment as to the design and appearance of the dwellinghouse itself'. Nevertheless, each case must be determined on its own merits and, where prior approval requires the external appearance of a dwelling to be assessed, it is a matter of planning judgement as to whether consideration is given to the building's relationship with nearby properties. In the current appeal, I have determined that the relationship of the property to the attached cottages is of relevance, and for the reasons I have outlined I conclude that the external appearance of the dwellinghouse would be unacceptable. This justifies a refusal of prior approval.

Conclusion

16. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

² Appeal Reference APP/J1535/D/21/3266264