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## Appeal Decision

Site visit made on 7 February 2022 by Darren Ellis MPlan

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 February 2022**

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**Appeal Ref: APP/N3020/D/21/3287512**

**15 Whitby Crescent, Woodthorpe, Nottingham, Nottinghamshire NG5 4NE**

- 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 Stephen Geill against the decision of the Council of the Gedling Borough Council.
  - The application Ref :2021/0375PN, dated 26 March 2021, was refused by notice dated 29 June 2021.
  - The development proposed is the existing bungalow roof to be removed & replaced with the addition of 3 pitched roof dormer windows to the front elevation. A single flat roof dormer window to be installed to the rear elevation. All existing roof tiles to be refitted. A new staircase to be installed from the existing entrance hall to the new accommodation comprising a landing/study, bedroom & bathroom.
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### Decision

1. The appeal is dismissed.

### 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.

### Preliminary Matters and Main Issues

3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits development consisting of the enlargement of a dwellinghouse by construction of one additional storey, where the existing dwellinghouse consists of one storey, together with any reasonably necessary engineering operations.
  4. The Council's Decision Notice and delegated report and the appellant's statement all refer to Schedule 2, Part 20 of the GPDO, however Part 20 has regard to the construction of new dwellinghouses which is not the case in this appeal proposal. Both parties have subsequently agreed that Part 1 of Schedule 2 is applicable in this case. That is clearly the correct part of the GPDO and I have proceeded on that basis.
  5. Development is permitted under Class AA subject to limitations and conditions, as set out at paragraphs AA.1 and AA.2. One of the relevant conditions, set out at paragraph AA.2(2)(c) is that the roof pitch of any upward extension must be the same pitch as the existing dwellinghouse.
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6. During my consideration of the appeal I had concerns that the roof pitch shown on the proposed drawings may not match that of the original dwelling and sought the views of the parties in that respect. Even though this is not an issue that has been raised by the Council I am required to consider the matter because any planning permission granted by virtue of Article 3(1) of the GPDO only applies where relevant conditions and limitations are met. Prior approval cannot be granted for a development that falls outside those defined parameters. In such cases an application for planning permission would need to be made to the Council to seek planning permission.
7. Where a proposal does comply with relevant conditions and limitations, paragraph AA.2(3) of the GPDO sets a requirement that the developer applies for prior approval to the local planning authority. For the reasons set out above, it would only be necessary to consider such prior approval if the proposal meets all other conditions and limitations of the GPDO.
8. Accordingly, the main issues are:
  - i) whether the proposal complies with the condition in paragraph AA.2.(2)(c) with regards to the roof pitch; and
  - ii) if so, whether prior approval should be granted for the impact on the amenity of any adjoining premises and for the external appearance of the dwellinghouse.

### **Reasons for the Recommendation**

9. Although the Council has failed to refer to it, paragraph AA.2.(2)(c) of Class AA sets out the condition that the roof pitch of an upwards extension must be the same as the roof pitch of the existing dwellinghouse. The submitted drawings show that the eaves height would remain the same while the ridge height would be increased. Consequently the roof pitch of the proposed roof would inevitably be steeper than the existing roof pitch. In addition, the proposal seeks to create extra space within the heightened roof through the insertion of dormer windows to the front and rear. Those dormers would break the roof plane. Thus, on account of the steeper roof pitch and dormer windows it is clear that the proposal would not comply with the condition in paragraph AA.2.(2)(c) and the proposal would therefore fail to accord with the conditions of Class AA.
10. As the proposal does not meet the terms of Class AA and therefore would not amount to permitted development, it is not necessary to consider the effect of the proposal on the amenity of any adjoining premises and the external appearance of the dwellinghouse.

### *Other matters*

11. The appellant states that the proposal would provide space to allow him to work from home more effectively. However, the prior approval process set out in Class AA does not list private benefits as a matter that can be considered under the process.
12. The appellant has also stated the design rationale for utilising a steeper roof pitch, with dormer windows, which was developed with the aim of creating habitable first floor space whilst minimising any increase in overall ridge height. This decision makes no comment on the design merits of the proposal in terms

of aesthetics or impact on neighbouring residents and such matters would be appropriately considered if a formal planning application was made.

### **Conclusion**

13. For the reasons given above the proposal would not comply with the condition in paragraph AA.2.(2)(c) and I therefore recommend that prior approval should not be granted having regard to the requirements of Schedule 2, Part 1, Class AA of the GPDO.
14. Having regard to the above, and taking account of all other matters raised, I recommend that the appeal should be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

*Chris Preston*

INSPECTOR