



Appeal Decision

Site visit made on 28 February 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH March 2022

Appeal Ref: APP/Y3615/D/21/3280585

Lux Domus, Fort Road, Guildford, Surrey GU1 3TE

- 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, Paragraph AA.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Light against the decision of Guildford Borough Council.
 - The application Ref 20/W/00135, dated 19 May 2021, was refused by notice dated 11 June 2021.
 - The development proposed is an application for prior approval for the enlargement of a dwellinghouse by construction of an additional storey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both the Council and the appellant were afforded an opportunity to comment on the implications of a recent High Court judgment¹ and I have taken any subsequent representations into account.

Background and Main Issue

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 consisting of the construction of up to two additional storeys where the existing dwellinghouse comprises two or more storeys. The Council have concluded that the appeal scheme meets the criteria for being permitted development and I have no reason to disagree.
4. That said, development under Class AA is permitted subject to a limiting condition that before beginning the development, the developer must apply to the Local Planning Authority for prior approval as to several matters including the external appearance of the dwellinghouse. The High Court judgment mentioned above, which postdates the two appeal decisions² referred to by the appellant, confirms that the control over the external appearance of the dwelling is not limited to the impact on the subject property itself and can include the impact on the surroundings. For example, this broader approach can embrace the visual impact of the proposal on streetscapes.

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

² APP/J1535/D/21/3266264 and APP/X1735/D/21/3269472

5. The Local Planning Authority may refuse an application for prior approval where it considers the scheme would not comply with the limitations or restrictions that are applicable to such permitted development. In this respect the Council has raised concerns regarding the effect the appeal property's external appearance, once extended, would have on the street scene.
6. Thus, the main issue in this appeal is whether prior approval should be given, having particular regard to paragraph AA.2(3)(a)(ii) with reference to the external appearance of the dwellinghouse.

Reasons

7. Lux Domus is a bold contemporary property located on the northern side of Fort Road where the street alignment curves slightly. As a result, the property stands forward of its easterly neighbour and is prominent in views along the street from the direction of Pewley Down, which is a local nature reserve with extensive views over the Surrey Hills. Properties in the locality tend to be large with those on the northern side of Fort Road elevated above the street and those to the south below it.
8. Lux Domus is arranged over three floors and exhibits a flat roofed form. As a result, it has a higher eaves line than the property to the west, which has a hipped roof. The bold white finish, flat roof and hard landscaping along the frontage set the building apart from the more traditional homes in the road. Nevertheless, the height of Lux Domus is similar to the properties either side as is the property's general massing and size. In this respect, it responds to the overriding scale and size of dwellings nearby and this allows for some harmony.
9. The appeal scheme would see an additional floor added to the property that would echo the proportions, architectural style and detailing of the lower floors. The material pallet would also match. However, the building once extended would be considerably taller than those either side or in the locality. The principal and side elevations would also have a much greater overall massing. Accordingly, the building once extended would have a strident, discordant and overpowering appearance. I observed that it would be possible to discern this from Pewley Down and a long section of Fort Road. As a result, the proposal would dominate and significantly harm the street scene.
10. The proposal would therefore be at odds with the aims of Policies H8 and G5 of the Guildford Local Plan 2003 and Policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015 – 2034 as supported by the Residential Extensions and Alterations Supplementary Planning document 2018. Together, they seek to secure development that respects the character of the area. Prior approval applications are not subject to s38(6) of the Planning and Compulsory Purchase Act and therefore the conflict with the development plan does not carry the same force. It is however material to my assessment that the proposal would significantly harm the character and appearance of the area and thus be at odds with these policies.
11. 23a and 23b Fort Road, are arranged over four storeys. However, the upper floors are located within the roof and therefore the overall height is similar to nearby dwellings. In this respect these two properties appear reasonably consistent with the prevailing pattern of development in the street. They do not upset the pleasant harmony and rhythm of the street scene in the way the appeal scheme would. A four-storey dwelling has also been approved at 16 Fort

Road. However, it would be located on the lower southern side of the road where it would appear two storeys in height from the street.

12. I accept that upward extensions will by their nature intrinsically increase the height of a dwelling and therefore an impact is to be expected. However, Class AA has been specifically drafted to ensure upward extensions are not an unqualified permitted development right. Consideration is required to be given to the broad impact of the subsequent external appearance of the dwelling. In this case the proposal would offend the street scene, which encompasses properties of a similar height and massing.
13. For the reasons set out above, the external appearance of the building as a result of the appeal scheme would significantly harm the street scene and thus the character and appearance of the area. Accordingly, when having regard to Paragraph AA.3(12) of the GPDO, the proposed development would be at odds with Paragraphs 126 and 130 of the National Planning Policy Framework. This national policy expects development should be visually attractive, of good architecture and sympathetic to local character.

Other Matters

14. I note the concerns of interested parties regarding the effect of the proposal on living conditions, but as the proposal has failed on the main issue I have not considered this point further.

Conclusion

15. For the reasons given above, prior approval is not granted, and the appeal is dismissed.

Graham Chamberlain
INSPECTOR