



Appeal Decision

Site visit made on 12 May 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/Y1945/W/21/3277015

Rhodes House, 12A Rose Gardens, Watford, Herts WD18 0JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Stuart James Taylor against the decision of Watford Borough Council.
 - The application Ref 21/00456/ADPA, dated 25 March 2021, was refused by notice dated 7 June 2021.
 - The development proposed is prior approval pursuant to Class AA of the GPDO for the upward extension of two storeys.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposed development meets the permitted development limitations and conditions of Class AA of Part 1 of Schedule 2 of the GPDO and, if so, (ii) whether it complies with all of the detailed assessment criteria in paragraph AA.2(3).

Reasons

Whether permitted development

3. Class AA of the GPDO relates to the enlargement of a 'dwellinghouse' by construction of additional storeys. In respect of this class of development, paragraph 2(1) of the GPDO states that a dwellinghouse '*does not include a building containing one or more flats, or a flat contained within such a building*'.
4. The Council asserts that the property has been used as two separate flats since 1999 despite planning permission being granted at this time for the building to be used as a single dwellinghouse. As part of the appeal, the Council has included extracts from Council tax records referring to '12A' and '12B' Rose Gardens (Band C rating) and with two separate charges of £1743.87. In addition, the Council has referred me to Google Street view imagery, dated 2015, showing two black bins, two blue bins and one green bin. The Council comment that the occupiers of a single dwellinghouse would not be permitted to have so many bins.

5. In addition, the Council comment that '*a site visit was carried out on 01.06.2021 which confirmed that the house had two separate entrances, two sets of doorbells/intercom systems and signage clearly demarcating two separate flats, i.e. 12A and 12B*'. The Council contend that the lawful position relating to Rhodes House is that of two separate flats.
6. The appellant has submitted statutory declarations from himself, a friend, his partner and a doctor, all of which claim that the property has been used as a single dwellinghouse for over ten years. The friend and the doctor say that they have visited the property during this time both on the ground floor and '*also the second floor to which holds Stuart Taylor's office*'. There is no photographic proof of use of the upper floor as an ancillary office, but even if the upstairs original bedroom had been used as an office, this in itself would not mean that other rooms at first floor level had not been used as a separate flat. The appellant's partner has attached a Home Office UK Border Agency form to her statutory declaration. This does include the address of '*12A Rose Gardens*', but that does not in itself mean that part of the building has not been used as a separate flat.
7. The appellant's evidence includes correspondence between him and British Gas. Some of the correspondence refers to '*flat B, 12 Rose Gardens*' (e.g. that paid on 8 December 2014) or '*flat 12B, 12 A Rose Gardens*' (e.g. that paid on 1 January 2016). There is one invoice as late as 1 May 2019 which refers to '*Flat 12B, 12 A Rose Gardens*'. From April 2019, reference is made to Mr Stuart Taylor of '*12A Rose Gardens*' and in respect of a property band C rating.
8. The aforementioned references to '*12B, 12A Rose Gardens*' suggest to me that the appeal building has been used as two separate flats. Indeed, if the building was used as one single dwellinghouse, there would be no reasonable explanation as to why '*12B*' needed to be included in the address in the British Gas letters. This evidence, coupled with Council tax records, the number of bins in the driveway in 2015, and the Council's account of what is witnessed on its site visit in June 2021, does not provide a clear and unambiguous picture of the appeal building being lawfully used as a single dwellinghouse.
9. I do not doubt that the appellant has lived at '*12A Rhodes Gardens*' since the building was originally built, but this does not mean that it has not also been used as a separate flat. I note the appellant's photos of children in the property, but such photographs do not provide certainty in terms of the use of the property over several years. Indeed, the dated photos were taken only last year. Furthermore, the appellant's submitted home insurance from 'Landlord Insurance UK', dated 2 January 2020, refers to '*12A Rose Gardens*' and a property type of '*house*'. This does mean that the property is not lawfully two flats: it is not uncommon for insurers to use the word '*house*' to relate to both flats and family dwellings.
10. Based on the evidence before me, and on the balance of probabilities, I find that the evidence does not support lawful use of the building as a single dwellinghouse. As there is not clear and unambiguous evidence to demonstrate that the proposed development would relate to a single dwellinghouse, I am unable to therefore find that it would fully meet all of the limitations and conditions of Class AA of Part 1 of Schedule 2 of the GPDO. I cannot therefore conclude that the proposal would be permitted development.

Detailed assessment criteria

11. As I have been unable to find that the proposal would be permitted development, it has not therefore been necessary for me to consider the appeal against the detailed assessment criteria in paragraph AA.2(3).

Conclusion

12. For the reasons outlined above, I am unable to conclude that the proposal would be permitted development. Therefore, the appeal is dismissed.

D Hartley

INSPECTOR