



Appeal Decision

Site visit made on 21 June 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Appeal Ref: APP/A2280/D/22/3291038

7 Princes Avenue, Walderslade, Chatham, Kent, ME5 8BA

- 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 Mike Tovey against the decision of Medway Council.
 - The application Ref MC/21/2790, dated 28 September 2021, was refused by notice dated 10 December 2021.
 - The development proposed is application for prior approval for the enlargement of a dwellinghouse by the construction of additional storeys. The maximum height proposed is 9.25 m.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for enlargement of a dwellinghouse by construction of additional storeys subject to limitations and conditions.
3. Where an application is made for enlargement of a dwellinghouse by construction of additional storeys prior approval is required for development within Class AA for which development is allowed by paragraph AA(a) provided it complies with those conditions set out under AA.2. The local planning authority is required to assess the impact of the proposed development on the external appearance of the dwellinghouse including the design and architectural features of the principal elevation of the dwellinghouse (AA.2(3)(a)(ii)(aa)), taking into account any representations received.

Main Issues

4. I consider that the main issues in this appeal are whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class AA of the GPDO and the impact of the external appearance of the additional storey upon the host dwelling and the street scene.

Reasons

5. Paragraph AA.3.12(b) of Part 1 of the GPDO indicates that regard can be had to the National Planning Policy Framework (the Framework) in so far as relevant to the subject matter of the prior approval, as if the application were a

- planning application. The Framework emphasises the importance of good design with development being visually attractive as a result of good design.
6. The judge at a recent High Court judgement (CAB Housing Ltd, Beis Noeh Ltd and Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)) upheld that a broader interpretation of the GPDO AA.2(3)(a)(ii)(aa) of Part 1 the 'external appearance' of the dwellinghouse is not limited to the principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations. In essence, the considerations pertaining to external appearance could embrace the visual impact of the proposal on premises other than the subject dwelling, including streetscapes.
 7. The dwelling is one of a pair of two storey semi-detached properties sited within a row of semi-detached dwellings of similar architectural form, design and articulation, all of which host the same building height. The wider surrounding area has many different house types of varying height and design, which includes some three-storey dwellings. Many of the properties, including that of the row of semi-detached dwellings, enjoy an elevated siting given the rising topography of the land. The steeply sloping topography of the valley is noted by the appellant in his Character Assessment that supports the appeal.
 8. The additional height, along with its additional built form, would unbalance the form of the semi-detached properties and the row. Although matching materials would be utilised, the window articulation within the front elevation within the additional storey would not reflect that of the existing first floor window. The proposal would have a visually unbalancing impact upon the pair of semi-detached properties and would appear as a conspicuous extension within the row. The window articulation within the additional storey would appear at odds with that of the host property and those other semi-detached properties within the row. Although there is design diversity within the wider street scene, the upward storey would be out of keeping within the context of the host property, this pair of semi-detached properties, and the row of semi-detached properties. The upward additional storey would be visually harmful for these reasons and would not result in a visually attractive development or represent good design.
 9. A photograph has been provided by the appellant that annotates average roof line heights along Princes Avenue. However, that photograph is taken from an elevated siting looking downward towards the properties along Princes Avenue. The existing development and that proposed within the prior approval will appear visually different from other viewpoints. I have also been provided with photographic examples of tall development in the wider area. Notwithstanding this, I have found that the effects of the building's intrinsic design as a result of adding an additional storey would have a visually harmful impact within the context of the street scene within the environs of the appeal site.
 10. The additional storey would have a harmful external appearance upon the host dwelling and the street scene. This brings the proposal into conflict with the GPDO AA.2(3)(a)(ii)(aa) of Part 1. Therefore, the development is not permitted by Schedule 2 and Article 3 of the 2015 Order. It follows that the development proposal would not fall within the definitional scope of Class AA, therefore, the prior approval application should be refused.

Other Matters

11. I have been provided with information relating to sun positioning. However, this information does not alter or overcome my above considerations in respect of this Class AA prior approval development.

Conclusion

12. For these reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR