



Appeal Decision

Site visit made on 25 March 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2022

Appeal Ref: APP/A0665/D/21/3288466

Marantha, Middle Walk, Netherton, Frodsham WA6 6BW

- 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 Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr O McNab against Cheshire West and Chester Council.
 - The application 21/02988/PAA, dated 9 July 2021, was refused by notice dated 20 September 2021.
 - The development proposed is described as 'erection of an additional floor of accommodation.'
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of an additional floor of accommodation at Marantha, Middle Walk, Netherton, Frodsham WA6 6BW in accordance with the application Ref: 21/02988/PAA, dated 9 July 2021, and the details submitted with it including plan nos (2-)AP001 Rev 3; (2-)AE001 Rev 5; (2-)AP002 Rev 2; (2-)AP003 Rev 2; and (90)Ax001 Rev 1 pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph AA.2(3) and subject to the following condition:
 - 1) The first floor bathroom window in the north elevation of the development shall be non-opening below 1.7 metres when measured above internal floor level) and glazed with obscured glass to a minimum Pilkington Privacy Level 3 or equivalent and thereafter retained as such. No other windows or openings shall be introduced on the above-mentioned elevation without the express consent in writing of the local planning authority.

Preliminary Matters

2. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) allows for up to two additional storeys to a dwellinghouse, subject to limitations and conditions set out under Class AA.1 and Class AA.2. The Council's concern relates only to the conditions of paragraph AA.2(3)(a)(i). This requires consideration of the impact of the development on the amenity of any adjoining premises, including overlooking and the loss of light.
3. For the purposes of my decision I have used the more concise description of the proposal given on the Council's decision notice, which I note that the appellant has adopted on the appeal form.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of Nos. 56 and 58 Hillfield, with regard to outlook and light.

Reasons

5. The appeal site comprises a detached bungalow on Middle Walk, backing onto Nos. 56 and 58 Hillfield, which are situated on lower ground. The surrounding area is residential, with the properties towards the corner of Middle Walk and Hillfield having a fine development grain.
6. The proposed addition of a further storey would inevitably cause a certain change in outlook from Nos. 56 and 58 due to the introduction of built form at first floor level. However, it would not create a relationship with these properties that is uncommon in residential areas, particularly acknowledging the fine grain of development in the immediate vicinity.
7. No. 56 is a two storey dwelling, rising above the boundary fence with windows offering views of the site. However, it sits at angle such that the windows would not directly face the proposal and is located off the boundary due to its rear garden, providing an element of separation. The tall boundary planting would also provide screening of the additional story. As such, the proposal would not appear overbearing from the rear windows and gardens of No. 56 and, even accounting for the level difference, the change in outlook would not be significant.
8. In respect of No. 58, this is a single storey property with limited space between it and the boundary with the appeal site. Whilst there is a window on this property which directly faces the appeal site due to the boundary fencing and the change in ground levels, the outlook from this window would remain largely unchanged by the proposal. In respect of other windows and the garden areas the increase in height and bulk of the appeal property would have little impact on outlook. To that end the proposal would therefore not appear overbearing or unduly impact the outlook from No. 58.
9. For similar reasons, the proposal would only have a limited impact on Nos. 56 and 58 in terms of overshadowing. Whilst located to the south and on higher ground, its positioning relative to these dwellings would not lead to a significant reduction in the amount of light reaching these spaces due to the separation distance, set back from the boundaries and presence of fencing and planting. Overall, the proposal would not unacceptably reduce the enjoyment of the rear gardens or habitable rooms of Nos. 56 and 58 due to any change in outlook or light.
10. For the reasons given above, the proposal would not result in an unacceptable level of harm to the living conditions of occupiers of Nos. 56 and 58 Hillfield, with particular regard to outlook and light.

Other Matters

11. Interested parties have raised concerns that the proposal could impact the privacy of surrounding occupiers. I further note that neighbouring occupiers have raised concerns relating to the hypothetical future installation of additional windows at the proposal. I acknowledge that the proposal has the potential to cause impacts in these regards however, I note that the Council

has suggested a condition which I agree would adequately address these concerns.

12. The Council has also raised concerns relating to the impact of the proposal on the outlook of future occupiers of the appeal property due to the only fenestration in one of the proposed bedrooms being a rooflight. However, when making a determination as to whether or not to grant prior approval deliberations must be confined to the matters set out under the relevant Part and Class. In this case, Class AA refers to impacts on the amenity of adjoining premises only. Therefore, any impact on the appeal property is not within the scope of the prior approval.

Conditions

13. The GDPO states that prior approval may be granted unconditionally or subject to conditions reasonably relates to the subject matter of the prior approval.
14. The standard conditions for a prior approval include a condition requiring completion of the development within three years, as well as conditions relating to the use of similar external materials, the management of the construction of the development and notifying the local planning authority of the completion of the development. These conditions are set out in full in sections AA.2 (2) and AA.2(3)(b)-(e) of Schedule 2, Part 1 the GPDO.
15. In addition to these standard conditions, I have applied a condition specifically in relation to the use of obscured glass and a non-opening window in the bathroom to protect adjoining properties from overlooking together with the restriction of other new windows in the north elevation.

Conclusion

16. For the above reasons, I conclude that the appeal should be allowed, and prior approval granted.

C Rafferty

INSPECTOR