



Appeal Decision

Site visit made on 9 August 2022 by M Long

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2022

Appeal Ref: APP/D3640/D/21/3289642

37a Oakdene, Chobham, Surrey GU24 8PS

- 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) (GPDO).
 - The appeal is made by Mr Hermes Pavli and Maria Michaleides against the decision of Surrey Heath Borough Council.
 - The application Ref 21/0579/GPD, dated 19 May 2021, was refused by notice dated 15 October 2021.
 - The development proposed is described as an 'additional storey to dwellinghouse. It will have a brick finish that will match the existing appearance'.
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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.

Procedural Matters

3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO, planning permission is granted for the enlargement of a dwellinghouse by construction of additional storeys subject to limitations and conditions set out under Class AA.1 and Class AA.2. The Council's concern relates to conditions AA.2(3)(a)(i) and (ii) and it refused prior approval on this basis. This requires consideration of the impact on the amenity of any adjoining premises, including overlooking, privacy and the loss of light and the external appearance of the dwellinghouse, including the principal elevation and any side elevation that fronts a highway.
4. The appellants and the Council were given the opportunity to comment on a Judgement (CAB Housing Ltd and others v SSLUHC and others [2022] EWHC 208 (Admin)) that has influenced the below recommendation. I have considered the comments in my deliberation of this appeal.
5. There is a discrepancy in the spelling of one of the appellant's names included within the submitted documents. I have used the spelling confirmed by the agent and included within the appeal form and appeal statement.

Main Issues

6. The main issues are whether prior approval should be granted for the proposal having regard to:
- the external appearance of the dwellinghouse; and,
 - the impact on the amenity of any adjoining premises.

Reasons for the Recommendation

7. A Judgement (CAB Housing Ltd and others V SSLUHC and others [2022] EWHC 208 (Admin)) has been made which has clarified that for Class AA proposals the consideration of the external appearance of the dwelling is not limited to the impact on the subject property itself, but also includes the impact on neighbouring premises and the locality. Also, it has clarified that the assessment of the impact on amenity is not limited to overlooking, privacy or loss of light. The appellant has submitted a number of appeal decisions in which an Inspector has taken a narrower interpretation of the GPDO wording, however, I must consider this appeal in light of the recent Judgement.

External appearance

8. The appeal site is a detached, two-storey dwelling on the northern side of Oakdene. The surrounding residential area is comprised of mostly terraced and semi-detached dwellings that share a broadly similar design. In comparison, the appeal dwelling has a more modern design and is understood to have been constructed after the neighbouring properties on land that previously providing an access way. The appeal dwelling has a smaller scale and lower height than the neighbouring properties which gives it an inconspicuous appearance in the Oakdene streetscene.
9. The proposed development is an additional storey extension that would result in a ridge height of approximately 9.3 metres and an eaves height of approximately 7.2 metres. The proposed fenestration and external materials would match those of the existing property.
10. The proposed additional storey extension would add considerable height to the dwelling, whilst maintaining its current width. When viewed from the front elevation, the dwelling would have a tower-like appearance and its proportions would appear out-of-kilter. While the proposed external materials would visually connect to the main dwelling, this would not mitigate the harmful design of the proposed additional bulk which would relate unsympathetically to the small-scale residential character of the dwelling.
11. The extended dwelling would be viewed within the immediate context of the nearby two-storey dwellings. The additional height would feature incongruously and relate poorly to the general size and character of houses in this surrounding area. The appeal dwelling is detached and has a lower height than the neighbouring properties, which may allow for some forms of development that would otherwise be unacceptable on the surrounding terraced and semi-detached houses. However, in this context, the proposed scheme would appear as a discordant addition that would result in the appeal dwelling having an overly conspicuous appearance in the Oakdene streetscene.

12. Although taller buildings are an inevitable consequence of Class AA of the GPDO, the relevant legislation requires a consideration of the external appearance of the dwellinghouse. In this context, there would be harm to the appearance of the host dwelling and the locality. Due to the appeal dwelling's proximity and close visual relationship to the neighbouring properties, taking the neighbouring premises and the locality into consideration is, in my judgement, justified in determining the proposal's effect on the external appearance of the dwellinghouse.
13. Paragraph 120(e) of the National Planning Policy Framework (the Framework) supports opportunities to use the airspace above existing premises for new homes, rather than extending existing dwellings. In any event, the Framework seeks to ensure such developments are consistent with the form of neighbouring properties and the overall streetscene. In this instance, the height and tower-like appearance of the proposal would feature unsympathetically in the Oakdene streetscene.
14. Overall, the proposal would result in unacceptable harm to the external appearance of the dwellinghouse and conflict with the Framework requirement to achieve high quality design that adds to the quality of an area. Although not determinative in this prior approval appeal, the proposal would also conflict with Policy DM9 of the Core Strategy & Development Management Policies 2011-2018, adopted February 2012, which seeks to ensure that development respects the local character, paying particular regard to scale and massing.

Amenity of adjoining premises

15. The appeal dwelling is constructed against the shared fenced boundary with the neighbouring property to the east, No 38, a two-storey house with a single-storey rear projection located close to this boundary. I also noted some mature vegetation along part of this shared boundary. The appeal dwelling projects approximately 3.1 metres beyond the two-storey rear elevation at No 38. The neighbouring dwelling to the west, No 37, is set back from the shared boundary with the appeal site and has a single-storey rear addition close to this boundary that extends beyond the appeal dwelling.
16. As the appeal property projects beyond the rear elevation of No 38, the proposed large scale would appear unduly overbearing when viewed from the rear amenity space of the neighbouring property. The proposed additional bulk and increased height would be positioned against the shared boundary and so would have a visually intrusive effect, to the detriment of the neighbouring resident's living conditions. While there is some vegetation along the shared boundary, this is not of an amount nor in a position that would sufficiently mitigate the overbearing impact of the appeal scheme.
17. Given that the appeal dwelling's rear elevation is broadly in line with the main two-storey elevation at No 37, there would be no unacceptable impact on the amenity of its residents. Due to the significant distance of the other surrounding dwellings from the appeal house, there would be no other harm with regards to the living conditions of their occupiers.
18. For the above reasons, the proposal would result in undue harm to the amenity of No 38 contrary to the Framework which seeks to there are high standards of amenity for existing and future users. While not determinative in this prior approval appeal, the proposal would be contrary to Policy DM9 of the Core

Strategy & Development Management Policies 2011-2018, which seeks to ensure development that respects the amenities of occupiers of neighbouring properties.

Conclusion and Recommendation

19. For the reasons given above, I recommend that the appeal should be dismissed and prior approval should be refused.

M Long

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

K Taylor

INSPECTOR