



Appeal Decision

Site visit made on 6 September 2022 by Ifeanyi Chukwujekwu BSc MSc MRTPI
MIEMA CEnv

Decision by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2022

Appeal Ref: APP/J1915/D/21/3289597

Christys, Albury End, Herts SG11 2HS

- 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 C Strachan against the decision of East Herts Council.
 - The application Ref 3/21/1927/ASDPN, dated 20 July 2021, was refused by notice dated 9 November 2021.
 - The development proposed is construction of one additional storey to the existing dwelling, to increase the height from 5.34 metres to 8.0 metres¹.
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Decision

1. The appeal is allowed, and prior approval is given 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 construction of one additional storey to the existing dwelling, to increase the height from 5.34 metres to 8.0 metres at Christys, Albury End, Herts SG11 2HS in accordance with the terms of the application, Ref 3/21/1927/ASDPN, dated 20 July 2021, and the plans submitted with it.

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.

Preliminary Matters

3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) sets out permitted development rights for development consisting of works for the construction of up to one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
4. As detailed within the GPDO², development under Class AA is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for prior approval. The Local Planning Authority may refuse the application where it considers that the

¹ Taken from Councils decision notice and utilised on the appeal form

² Part 1, Class AA, paragraph AA.2(3)

proposal does not comply with the limitations or restrictions that are applicable to such permitted development.

5. The provisions of the GPDO require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations.
6. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

7. The main issue is whether the proposal would accord with the provisions of Part 1, Class AA, with particular regard to the external appearance of the dwellinghouse.

Reasons for the Recommendation

8. Paragraph AA.2(3)(a)(ii) of Class AA refers to the external appearance of the dwellinghouse. However, the CAB Housing Ltd judgment³ confirmed that the control of the external appearance of the dwelling house is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.
9. The proposal would create an additional floor of accommodation which would be constructed in similar materials, it would not have a window in any wall or roof slope forming a side elevation and the roof pitch of the principal part would be the same as the existing.
10. In my view, the overall height and bulk of the resultant dwelling would not be excessive and as such it would not appear as an incongruous feature upon the property or within the surrounding area. This is particularly the case given that the nearby development largely consists of two-storey detached properties set within generous curtilage.
11. In coming to the above view, I acknowledge that the existing dwelling is very wide and sits at a slightly higher land level to surrounding properties and the addition of a further storey would increase the prominence of the dwelling.
12. Furthermore, as observed on my visit to the site, the appeal property is set back from the road frontage and there is . mature hedging and trees around large parts of the appeal site. Thus, the appeal property is not seen in the immediate context of any other dwellings.
13. I have also had regard to the setting of the nearby listed building of Kennel Farm. However, in my view the proposal would not have any discernible impact on the setting of this heritage asset and would therefore accord with the heritage aims of the Framework.
14. In addition to the above, in considering the design and architectural features of the proposal it is noted that these replicate the features of the existing building. In summary, I consider that the proposal would be acceptable in terms of its external appearance.

³ CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

15. In addition to the above, I have had regard to the comments raised in the representations made on the application, and in particular overlooking and privacy matters. However, the appeal property sits in a large plot and is sited a considerable distance to neighbouring properties. Given the distance between properties and the relationship between the proposed windows and the windows on these neighbouring properties, it is not considered there would be direct overlooking at a proximity which would result in detrimental loss of privacy to habitable rooms.
16. It is therefore considered that the proposal meets with all the requirements as set out and does not conflict with the requirements of Part 3(a)(ii) in Schedule 2, Part 1, Class AA.2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The proposal would not therefore be in conflict with the aims and objectives of the Framework.

Other matters

17. I have also had regard to concerns raised regarding the procedure for neighbour consultation undertaken for the appeal proposal by the Council. However, from the evidence before me, notifications were sent to all of the relevant properties in the vicinity of the site.

Conditions

18. The Council has provided as list of suggested conditions in the event that the appeal is allowed. However, these conditions duplicate the standard conditions as a set out in the GPDO and as such it is not necessary for me to impose in my decision. That said, in order for the proposal to benefit from the permitted development rights set out in the GPDO, all of the standard conditions set out at paragraphs AA.2 (2) and AA.3 3(b)-(e) must be complied with.

Conclusion and Recommendation

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and prior approval should be granted.

Ifeanyi Chukwujekwu

APPEALS 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 allowed.

Chris Forrett

INSPECTOR