



Appeal Decision

Site Visit made on 6 September 2022 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Chris Forrett BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2022

Appeal Ref: APP/B1550/D/21/3288877

23 Chelmer Avenue, Rayleigh, Essex SS6 7TB

- 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, 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 Ms Sue Gomm against the decision of Rochford District Council.
 - The application Ref 21/00941/DPDP2, dated 23 August 2021, was refused by notice dated 19 October 2021.
 - The development proposed is the "Prior Approval for an additional storey to a dwellinghouse (increase in height 1.90 metres) under Class AA, Part 1 of the General Permitted Development Order 2015 (as amended)."
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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.

Preliminary Matters

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 was amended on 31 August 2020 to introduce Class AA to Part 1 of Schedule 2, which sets out permitted development rights for development consisting of works for the construction of up to two additional storeys on an existing dwellinghouse that consists of two or more storeys, together with any reasonably necessary engineering operations.
4. The conditions at Paragraph AA.2.(3) of Class AA require, amongst other things, the developer to apply to the local planning authority for prior approval as to the external appearance of the dwellinghouse, and the impact on the amenity of any adjoining premises. It is on this basis that I have determined this appeal.
5. In addition to the above, I have utilised the description of the proposal in the banner heading from the Council's decision notice and the appeal form as it is more concise than that on the original application form.

Main Issues

6. In this case the Council raised no concern in respect of the effect of the proposal on air traffic and defence or on protected views. Accordingly, the main issues are whether prior approval should be granted for the external

appearance of the dwellinghouse, and in respect of the impact on the living conditions of the occupiers of 25 Chelmer Avenue with particular regard to light.

Reasons for the Recommendation

External appearance

8. Chelmer Avenue is characterised by a mix of single and two storey semi-detached dwellings, set back from the road with open boundary frontages. The notable exception to this is the adjacent property, No 21, which is a detached dormer bungalow. The appeal property itself is the left hand bungalow of a semi detached pair with two small dormers in the roof. The attached bungalow also has similar dormer windows.
9. The appeal proposal would increase the height of the existing roof by around 1.9 metres by raising the eaves and ridge line of the roof together with wall dormer windows to both the front and rear elevations.
10. The recent High Court judgement¹ confirmed that when considering the external appearance of the dwellinghouse, this is not limited to the impact on the subject dwelling itself but also can include the impact on neighbouring premises and the locality.
11. In considering the merits of this appeal, I acknowledge the various other appeal decisions which have been drawn to my attention by both parties. Significantly, all of these decisions pre-date the High Court judgement and as such I can give them little weight in my decision.
12. In my view, the external appearance of the resultant dwellinghouse would, as a result of its additional height, harm the existing uniform appearance of the streetscene. This harm is largely as a result of the increased height of the eaves level of the property which would seriously unbalance the pair of semi-detached bungalows and their surroundings. The proposal would therefore fundamentally, and harmfully, alter the character and appearance of the area. In that regard the proposal would conflict with the general advice contained in Section 12 of the National Planning Policy Framework which amongst other things promotes the creation of high-quality buildings and places.

Living conditions

13. The Council have set out that the proposal would result in overshadowing of the ground floor bay window of No.21. However, given the juxtaposition between the appeal property and No.21, which lies at approximately 90 degrees to the appeal dwelling, any overshadowing as a result of the proposal would be very small. Taking this into account, and regardless of the guidance contained in the Council's Supplementary Planning Document 2 – Housing Design, the proposal would not cause an unacceptable level of harm to the living conditions of neighbouring residents.

Other Matters

14. I acknowledge the occupiers need for additional living space. Whilst I am sympathetic to this need, I consider that this does not outweigh the harm to the character and appearance of the area that I have identified.

¹ CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

Conclusion and Recommendation

15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

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

Chris Forrett

INSPECTOR