



Appeal Decision

Site visit made on 12 July 2022 by Darren Ellis MPlan

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2022

Appeal Ref: APP/N1025/D/22/3297426

3 Pares Way, Ockbrook, Derby DE72 3TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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/Mrs D/R Siddle against the decision of Erewash Borough Council.
 - The application Ref ERE/1221/0039, dated 21 December 2021, was refused by notice dated 28 January 2022.
 - The development proposed is described as 'prior notification for the addition of a first floor extension.'
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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.

Application for Costs

3. An application for costs was made by Mr & Mrs Siddle against Erewash Borough Council. This application is the subject of a separate decision

Preliminary Matters

4. I have taken the description from the appeal form since it most concisely and precisely identifies the development to which the appeal relates. It is the same description as is shown on the decision notice. On this basis, I am satisfied no party would be prejudice by my use thereof.
 5. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits, amongst other things, subject to conditions and limitations and in the case of the appeal scheme, development consisting of the enlargement of a dwellinghouse by construction of one additional storey, where the existing dwellinghouse consists of one storey, together with any reasonably necessary engineering operations.
 6. The GPDO sets out that National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases so far as relevant to the
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subject matter of the prior approval, as if the application were a planning application. I have considered the relevant policies of the development plan, only insofar as they are material considerations to the main issues of the case.

Main Issues

7. The main issues are whether prior approval should be granted having regard to the effect of the additional storey on the external appearance of the dwellinghouse and the living conditions of neighbouring occupiers.

Reasons for the Recommendation

External Appearance

8. The local area to the site is residential and is comprised of a mixture of single-storey bungalows, dormer bungalows and two-storey dwellings. The appeal property makes up part of a well-balanced group of five single-storey bungalows that exhibit consistent heights, roof forms, design and external facing materials. Overall, the group of bungalows have a cohesive appearance and even rhythm which makes a positive contribution to the character and appearance of the street.
9. Paragraph AA.2.(3)(a)(ii) of Class AA requires prior approval to be sought for 'the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' In addition, the courts have held that, for Class AA proposals, the control of the external appearance of the dwelling is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality. Furthermore, the use of the word 'including' in AA.2.(3)(a)(ii) means that the list that follows is not exhaustive. Therefore, consideration of external appearance can go beyond consideration of the principal elevation or any side elevation which fronts a highway.
10. The proposal would add an additional storey to the appeal property, designed with matching features, roof form and materials to the existing building. Nonetheless, the addition of the extra storey would create a jarring and discordant change in height in the group of bungalows, which would severely disrupt the harmony of the group and result in a property that would be harmfully at odds with the appearance of the existing dwelling and its immediate surroundings.
11. I have been referred to schemes at Nos 17, 29 and 35 Pares Way to add a second storey to dormer bungalows. However, these were all submitted as full planning applications and not through the prior approval process. Furthermore, the scale and massing of the extended dwellings are significantly more comparable to the adjacent properties than would be found with the appeal proposal. As such these nearby approvals are not directly comparable to the scheme before me.
12. Consequently, the proposal would not add to the overall quality of the area or be sympathetic to the surrounding built environment as required by Framework paragraph 130. Prior approval should therefore not be granted having regard to the external appearance of the dwellinghouse. The proposal would also conflict with the design related criteria of Policy 10 of the Erewash Core Strategy

(March 2014) (CS) and Erewash Saved Policy DC2, which seek high quality design that is in keeping with neighbouring properties.

Living Conditions

13. The courts have held that impact on living conditions, or amenity for the purposes of paragraph AA.2.(3)(a)(i) of Class AA, means that the listed factors are not exhaustive and that other factors that could lead to such an affect. This could include, for example, any potential overbearing.
14. The bungalows have a staggered building line, with the appeal property being set back from No 1 while No 5 is set back from the appeal property. The bungalows have south-east facing gardens, and therefore the proposed extra storey would only be likely to cause additional loss of light to the rear garden of No 1 for a short period when the sun is low in the sky during the late afternoon or evening. Nevertheless, the area of garden nearest to the rear of the bungalow at No 1, which is the area that is afforded the most protection, would be the area most affected by the loss of light.
15. Due to the close proximity of the bungalows to each other and the distance that Nos 1, 3 and 5 are set back from each other, the additional storey would also have an overbearing impact on the nearest rear window and garden area at No 1 and the nearest front window and entrance door to the side at No 5.
16. Overall, the overbearing impact to Nos 1 and 5 and the loss of light to No 1 would cause significant adverse effects on the amenity of the adjoining premises. In this regard, the proposal would conflict with the Framework which requires a high standard of amenity, and with the amenity related criteria of CS Policy 10 and Erewash Saved Policy DC2 which require development not to harm the amenity of nearby residents.

Conclusion and Recommendation

17. The proposal would harm the external appearance of the dwellinghouse and the amenity of adjoining premises. I therefore recommend that prior approval should not be granted and that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

John Morrison

INSPECTOR