



Appeal Decision

Site visit made on 1 November 2022 by Andreea Spataru BA (Hons) MA

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2022

Appeal Ref: APP/Z4718/D/22/3303916

72 Laund Road, Huddersfield HD3 3TU

- 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 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 Thomas Henry against the decision of Kirklees Council.
 - The application Ref 2022/90884, dated 14 March 2022, was refused by notice dated 17 May 2022.
 - The development proposed is the prior approval for enlargement of dwellinghouse by erection of additional storey.
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the enlargement of the dwellinghouse by the erection of an additional storey at 72 Laund Road, Huddersfield HD3 3TU, in accordance with the application Ref 2022/90884, subject to the conditions set out in section AA.2 of Class AA.

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 description of development in the banner heading and in the formal decision above is taken from the appeal form and the Council's decision notice, as this is more succinct than the description in the planning application form. I do not consider that any party has been prejudiced by my approach.
 4. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order), was amended on 31 August 2020 to introduce Class AA to Part 1 of Schedule 2, setting 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, or for one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
 5. The Council concluded that the proposal would comply with the conditions and limitations set out at paragraph AA.1 of Class AA, such that it would fall within the scope of permitted development rights, subject to the consideration of
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relevant matters of prior approval. On the evidence before me I see no reason to take a different view. The Council has, however, raised concerns in respect of the effect of the development upon the external appearance of the host property. My consideration of the appeal shall therefore focus on this matter.

6. Prior approval appeals should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. The principle of development is established through the grant of planning permission by the Order. The Council has referred to a development plan policy as well as design principles from the House Extensions and Alterations Supplementary Planning Document (SPD). These have only been considered insofar as they may be relevant to the context of specific prior approval matters. Therefore, the policies are not determinative of themselves, and the proposal has been considered on its merits in the confines of the prior approval regime.

Main Issue

7. The main issue is whether prior approval should be granted for the external appearance of the dwellinghouse.

Reasons for the Recommendation

8. The appeal dwelling sits at the head of a cul-de-sac and is set back from the street and from the front elevation of the adjacent neighbouring property No 70 Laund Road. It is located within a predominantly residential area that contains a mix of two-storey and three-storey properties of different ages, materials and design. The variety in the scale and design of properties contributes positively to the character and appearance of the area. Although the appeal dwelling's front elevation is single storey, it has a full width dormer extension to the rear.
9. The neighbouring properties adjoining the boundaries of the appeal site are generally two-storey dwellings. Given its siting and height, the appeal dwelling currently occupies a fairly secluded position, with its roof mostly visible from Maplin Drive. The land levels vary significantly between Laund Road and Maplin Drive, thus, due to their siting, the two-storey neighbouring dwellings on Maplin Drive appear significantly higher than the appeal dwelling.
10. 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 principle elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' The use of the word 'including' means that the lists that follow are not exhaustive and that other factors could affect the external appearance of the dwellinghouse. Furthermore, the wording of (aa) and (bb) suggests that some assessment should be made of how the dwellinghouse would appear in the street scene, as otherwise alterations could be made to the design and architectural features that could be considerably at odds with the surrounding area.

11. The Council has also highlighted the importance of a holistic assessment regarding the external appearance of the building and has specifically referred to the findings outlined within a recent Case¹, to which I have had regard.
12. The proposal would add an additional storey to the appeal dwelling. The extension has been designed with features and materials to match the existing building. The pitch of the roof would be the same, and the rear dormer would have a similar width as the existing one, although it would be flat-roofed, and its position would differ slightly as it would be set down from the ridge. Thus, the addition of an extra storey would not alter the proportions of the building to such an extent that it would be harmful to the appearance of the dwelling.
13. When considering the proposal within the context of the street scene, the variety of properties within the area offers some flexibility in terms of scale and design. Whilst the proposal would make the appeal dwelling higher than No 70 Laund Road, given the siting of No 72 at the head of the cul-de-sac and the variety in the height of the neighbouring properties located on the same side of the road, the additional storey would not make the appeal dwelling appear overly prominent within the Laund Road street scene.
14. Likewise, whilst the appeal dwelling would have a more modern appearance due to its materials and finishes than the neighbouring properties located immediately to the south-west, given its set back from the front elevation of No 70 Laund Road, and its siting within the street scene, it would not interfere with the group of traditional stone buildings and would not have a harmful effect on the appearance of the area.
15. Whilst the additional storey would increase the visibility of the appeal dwelling behind the row of garages on Maplin Drive, given the scale of the properties located on Maplin Drive, and the fact that they sit well above those on Laund Road, the proposal would not appear out of context when viewed from Maplin Drive. Consequently, I find that the appearance of the dwelling would be acceptable and that the proposal would accord with the requirements of paragraphs AA.2.(2) and AA.2.(3)(a) of Class AA.
16. I have taken account of the requirements of the Framework and the development plan insofar as they relate to the subject matter of this prior approval appeal. However, given that I have found that the proposal would not cause harm to the appearance of the dwelling and the surrounding area, I am satisfied that there is no conflict with the relevant design related policies.

Other matter

17. Concerns have been raised by a third party, notably regarding the effect of the development on the living conditions of the occupiers of neighbouring properties. As part of its assessment, the Council considered the impact of the proposal on the amenity of neighbouring properties, as per the requirements of the Order. The Council is satisfied that it would not give rise to any significant harm, and I see no reason to reach an alternative view.

¹ Cab Housing Ltd & Others v Secretary of State for Levelling Up, Housing and Communities & Others [2022] EWHC 208 (Admin) (03 February 2022)

Recommendation

18. Having regard to the above, and taking account of all other matters raised, I recommend that the appeal should be allowed and prior approval granted, subject to the conditions set out in Schedule 2, Part 1, Class AA of the Order.

Andreea Spataru

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 the appeal is allowed.

Sarah Housden

INSPECTOR