



Appeal Decision

Site visit made on 4 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2023

Appeal Ref: APP/X0415/D/22/3295770

124 Elizabeth Avenue, Little Chalfont HP6 6RQ

- 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 Nitish Jain against the decision of Buckinghamshire Council.
 - The application Ref PL/21/4288/PAHAS, dated 4 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed is Additional storey to existing dwellinghouse (maximum height increase 2.9 metres) (following planning permission PL/21/3241/ FA).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development given in the appellant's appeal statement which also matches that included on the Council's decision notice. This is more succinct than that included on the application form.
3. The Council's decision notice states that prior approval is required but does not explicitly state that prior approval is refused. Looking at the notice as a whole, including the reason as set out, it is reasonable to read the notice as a refusal of prior approval.

Main Issue

4. The main issue is whether the proposed development would be granted planning permission by Article 3(1), Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

Reasons

5. The proposal is for an additional storey to the existing dwelling. The evidence before me indicates that planning permission was previously granted by the Council under reference PL/21/3241/FA for various extensions. During my site visit I noted that these appear to have been constructed. The existing dwelling includes two front extensions which have a lower height than the rest of the building. The proposed additional storey would be partly located above one of these front extensions.
6. Paragraph AA.1 sets out the instances where development will not be permitted under Class AA including where any additional storey is constructed other than

on the principal part of the dwellinghouse (AA.1(i)). Paragraph AA.4(1) provides interpretations in respect of terms used under Class AA. It states:

"principal part", in relation to a dwellinghouse, means the main part of the dwellinghouse excluding any front, side or rear extension of a lower height, whether this forms part of the original dwellinghouse or is a subsequent addition'.

7. The interpretation is clear in defining the principal part of the dwelling as excluding a front extension of a lower height than the main part of the dwelling, regardless of whether or not it formed part of the original dwelling. Whilst it is likely that the front extension is part of the original dwelling, as indicated by the proliferation of similar and consistent building layouts in the surrounding area, within the interpretation of the GPDO this is not a consideration which determines the 'principal part' of the dwelling.
8. Indeed, the exclusion outlined under the interpretation focuses on the position of any extension being to the front of the dwelling and of a lower height than the main part of the dwelling. In the case of the appeal property, the extension is to the front of the building and is lower than the main part of the dwelling. Within these terms, the principal part of the dwelling at 124 Elizabeth Avenue excludes the existing front extension. Given that the proposal includes an additional storey partially above the existing front extension it would therefore exceed the limitation set out at Paragraph AA.1(i). The proposal is not therefore permitted development.
9. As a result, the proposed development does not constitute permitted development under Schedule 2, Part 1, Class AA of the GPDO. On that basis, there is no need for me to consider prior approval matters under Paragraph AA.2(3), pertaining to 'the external appearance of the dwellinghouse'.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

Luke Simpson

INSPECTOR