



Appeal Decision

Site visit made on 20 December 2022

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2023

Appeal Ref: APP/Z4718/D/22/3307614

2 Hayburn Gardens, Batley WF17 7TN

- 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 Mrs F Badat against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2022/91054, dated 28 March 2022, was refused by notice dated 5 July 2022.
 - The development proposed is "Prior approval for enlargement of dwellinghouse by erection of additional storey".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), permits development consisting of the enlargement of a dwellinghouse by construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys, together with any reasonably necessary engineering operations.
3. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority for a strictly limited number of matters.
4. The prior approval provisions do not require regard to be had to the development plan, but do require that regard should be had to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval. Development plan policies can be considered relevant only insofar as they relate to the development and prior approval matters. My decision has been made on that basis.

Main Issues

5. On the basis of the above and the decision of the Council, the main issues are whether or not prior approval should be granted having regard to (i) impacts on the amenity of any adjoining premises, and (ii) the external appearance of the dwellinghouse.

Reasons

Amenity

6. Given the stepped nature of the elevations of the existing terrace, the existing two storey dwellinghouse already gives rise to a very limited amount of overshadowing of neighbouring properties. Owing to the particular orientation of the properties and their relationship to each other, an increase in height would not significantly increase the amount of that overshadowing. The Council has noted in their report that the proposal would not offend their '45 degree' guidelines.
7. Although the proposal would, obviously, increase the height of the appeal property, given the above, I am satisfied that it would not cause unacceptable impacts or harm to amenity by virtue of greater, or otherwise unacceptable overshadowing.

External appearance

8. The appeal property sits at the top end of a terrace which runs up the slope of the hill, on a corner plot, close to several other roads and junctions. The area is typified by groups of broadly consistent houses. Other terraces similar to the appeal site run along the contours of the hill as well as across them. As a result, the rooflines of some terraces are level, but some, such as the appeal site, step up the hill. Despite this, and despite alterations over time since their original construction, there is a very deliberate and enduring consistency, rhythm and regularity to the external appearance of the dwelling and its neighbours. This would be significantly altered by the proposal.
9. I acknowledge that this appears to be the first such proposal in the immediate area, and that an upward extension, such as envisaged by the relevant permitted development right, cannot happen without an increase in scale and massing. However, the exercise of that right is qualified by the need to seek prior approval as to the external appearance of the dwellinghouse.
10. To my mind, whilst the appearance of the proposal insofar as it replicates the existing top-floor and roof-design would be consistent with the design of the dwelling, the resulting scale, height, mass and relationship to the surroundings and overall visual effect would not be. The proposed upwards extension would substantially increase the height of the dwelling, to such an extent that its external appearance would be significantly and harmfully incongruous with its original appearance, neighbouring properties and the appearance of the wider area. The increased height, coupled with the existing height difference would give the appeal site a towering and unduly tall appearance, marking it out as being substantially different from the established and otherwise enduring consistency, rhythm and regularity of external appearance in the area.
11. I also consider that the corner location of the site, set above its attached neighbours makes it both more prominent in the street-scene, and increases the harm that it would cause to the external appearance of the dwelling and wider area. Although I accept that the additional height of the proposal is within the limits set out in the conditions to the class, that does not in itself reduce or otherwise mitigate the harm I have found to the external appearance.

12. The appellant has referred to a number of similar upwards extensions apparently allowed in the Council area. Consistency in decision making is an important principle, and whilst I do not have the full details of the examples cited, I am satisfied from the details I do have that this appeal site, its surroundings and the effects of the proposal are sufficiently different from those examples that my reasoning is neither altered by, nor inconsistent with them.

Conclusion

13. In reaching this conclusion I accept that prior approval is a light-touch process which applies where the principle of the development has already been established. However, for the reasons given above, I conclude that whilst the proposal would not have an unacceptable effect on the amenity of adjoining premises, it would have a harmful and therefore unacceptable effect on the external appearance of the dwellinghouse.
14. As such, prior approval should be refused, and the appeal dismissed.

S Dean

INSPECTOR