
Appeal Decision

Site visit made on 20 January 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2023

Appeal Ref: APP/T0355/D/22/3307846
52 York Road, Windsor SL4 3NY

- 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 Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr and Mrs Jennings against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/01745, dated 27 June 2022, was refused by notice dated 24 August 2022.
 - The development proposed is prior approval for construction of one additional storey to the property with a maximum height of 2.7m.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the Council's decision notice in the interests of clarity. This is reflected in the banner heading of this decision letter and the appeal has been decided accordingly.
3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO planning permission is granted for enlargement of a dwellinghouse by construction of additional storeys subject to limitations and conditions.
4. Paragraph AA.2.(3)(a)(ii)(aa) sets out that before beginning the development, the developer must apply to the local planning authority for prior approval as to the external appearance of the dwellinghouse, including the design and architectural features of the principal elevation of the dwellinghouse.
5. The principle of development is established by the GPDO, and I have only had regard to policies in the development plan and the National Planning Policy Framework (the Framework) insofar as they are relevant to making a planning judgement on matters of prior approval.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. The site is located at 52 York Road in Windsor. The existing dwelling is a detached bungalow of modest proportions, and its design closely reflects that of other detached bungalows along this side of the street. Indeed, it is clear from the evidence presented and from my site visit that the bungalows along this side of the street share fundamental design language¹. This generates a significant degree of uniformity that makes a positive contribution to the character and appearance of the area.
8. The opposite side of the street is characterised by larger dwellings that are two storeys in height. Again, these larger two storey dwellings share fundamental design language, which also generates a significant degree of uniformity along their respective side of the street. Consequently, uniformity has a clear role to play in the broader street.
9. The proposal would deliver an additional storey to the existing dwelling. This would fundamentally change its scale to the extent that it would be incongruous with the uniform context of other bungalows along this side of the street. Consequently, it would look out of place and jarring. Altogether, and notwithstanding the retention of materials and roof profile associated with the existing dwelling², the proposal would harm the character and appearance of the area.
10. I note the appellant's evidence demonstrating variation in the design of dwellings behind the site. However, these are part of a different street scene and do not inform the context within which the proposed changes to the principal elevation of the existing dwelling need to be assessed. Whilst I accept the appellant's contention that an increase in scale under Class AA is inevitable due to its inherent provisions, such increases in scale need to occur in an appropriate context, in accordance with the relevant matters of prior approval.
11. The Council contend that the proposal would be cramped against the eastern boundary of the site. However, I am not persuaded that this would be the case because the proposal respects the pattern of development. Indeed, whilst it increases the height of the existing dwelling it maintains the gap between neighbouring dwellings. Notwithstanding, this does not change my conclusion on harm to the character and appearance of the area derived from other aspects of the proposals design.

Other Matters

12. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on decision makers to consider relevant directives and whether there is a reasonable likelihood of European Protected Species being present and affected by development that is said to be permitted development in a prior approval appeal. I am mindful of guidance³ which states that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

¹ Notwithstanding some limited variation in the finer architectural details that have resulted from neighbouring alterations

² And indeed, any other matters of prior approval not disputed by the Council

³ Paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system

13. In this context, there is limited evidence from either party in relation to the reasonable likelihood of European Protected Species being present and affected by the development. However, as I am dismissing the appeal on the basis of prior approval matters, there is no prospect of development affecting European Protected Species and it is not necessary to make a finding either way as it would make no difference to my decision.
14. The appellant has cited another decision⁴ made by the Council at 140 Springfield Road. Whilst similar on its face, the location of the development is towards the end of the street and in proximity to a junction with significant vegetation along the boundaries. Consequently, it is less prominent compared to the proposal in this case, which sits in the middle of a uniform row where changes would be clearly perceptible in the street scene. Consequently, in considering the different contexts, I have given the other decision limited weight.
15. The appellant has cited another appeal decision⁵ in support of the proposal. However, the inspector's reasoning focussed on the variety in the type of buildings in the area, unlike in this case where the uniformity and positive contribution to the character and appearance of the area is fundamental. Consequently, I have given the other appeal decision limited weight.

Conclusion

16. For the reasons given above, the proposal would harm the character and appearance of the area and prior approval cannot be granted in accordance with relevant limitations and conditions of the GPDO under Paragraph AA.2.(3)(a)(ii)(aa). Consequently, the appeal is dismissed.

Liam Page

INSPECTOR

⁴ 21/02008

⁵ APP/V1260/D/22/3295584