



Appeal Decision

Site visit made on 5 January 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal A Ref: APP/D1265/D/22/3300996

Misty Meadows, 147 Ringwood Road, Longham BH22 9AB

- 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 Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Victoria Phillips against the decision of Dorset Council.
 - The application Ref P/PAED/2021/04909, dated 15 November 2021, was refused by notice dated 17 January 2022.
 - The development proposed is described as: 'Add 1 storey to the existing property: A mid terrace. Permitted Development Class AA'.
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Appeal B Ref: APP/D1265/D/22/3301000

The Paddocks, 147 Ringwood Road, Longham BH22 9AB

- 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 Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Victoria Phillips against the decision of Dorset Council.
 - The application Ref P/PAED/2021/04917, dated 15 November 2021, was refused by notice dated 17 January 2022.
 - The development proposed is described as: 'Add 1 storey to the existing property: An end of terrace. Permitted Development Class AA'.
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Appeal C Ref: APP/D1265/D/22/3300327

Meadow Mews, 147 Ringwood Road, Longham BH22 9AB

- 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 Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Victoria Phillips against the decision of Dorset Council.
 - The application Ref P/PAED/2021/04915, dated 15 November 2021, was refused by notice dated 7 February 2022.
 - The development proposed is described as: 'Add 1 storey to the existing property: An end of terrace. Permitted Development Class AA'.
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Decision

1. Appeal A is dismissed.
 2. Appeal B is dismissed.
 3. Appeal C is dismissed.
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Preliminary Matters

4. Schedule 2, Part 1, Class AA (Class AA) of the General Permitted Development Order (GPDO), permits 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.
5. 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. Where development would not comply with the limitations set out within paragraph AA.1 it falls outside the scope of the permitted development regime and does not benefit from the planning permission granted by virtue of Article 3(1) of the GPDO.
6. In the case of Appeals A and B, the Council considered that the proposal would fail to comply with the limitations set out at paragraph AA.1.(c) of Class AA. It did not consider whether to grant prior approval for the matters set out at paragraph AA.2.3(a). If a proposal fails to meet the limitations of paragraph AA.1 it is not necessary or appropriate to consider whether prior approval should be granted for the matters set out at paragraph AA.2.3(a) because such prior approval can only be granted for development that falls within the scope of the permitted development regime.
7. Consequently, within my assessment of Appeals A and B, I shall consider whether the proposal would conform to the limitations set out in paragraph AA.1.(c) in the first instance and, only if that is the case, I shall consider whether to grant prior approval having regard to the matters at paragraph AA.2.(3)(a) of Class AA.
8. In determining the application relating to Appeal C, the Council refused prior approval on grounds relating to matters at paragraph AA.2.(3)(a).

Main Issues

9. The main issues in respect of Appeals A and B are whether the proposal complies with the requirements of Schedule paragraph AA.1.(c), and if the appeal succeeds in that respect; whether prior approval should be granted having regard to the external appearance of the dwellinghouse.
10. The main issue relating to Appeal C is whether prior approval should be granted having regard to the external appearance of the dwellinghouse.

Reasons

Paragraph AA.1.(c) of Class AA

Appeals A and B

11. Appeals A and B relate to Misty Meadows and The Paddocks respectively, two self-contained dwellings contained within a terrace of three residential units. The terrace comprises a large, predominantly flat roof structure (the appeal building) that, according to the extensive planning history, was sub-divided into three units following a grant of planning permission in March 2019¹ (the 2019 permission). Prior to this, the building was in use as a single dwellinghouse.
12. Under AA.1.(c) development is not permitted by Class AA if the dwellinghouse was constructed before 1st July 1948 or after 28th October 2018.

¹ Local Planning Authority Ref 3/18/2235/FUL, approved 21 March 2019.

13. The appellant indicates that the appeal building has existed since 2011, and there is no information from the Council disputing this insofar as it relates to the first qualifying date. However, the Council contend that works to sub-divide the appeal building into The Paddocks and Misty Meadows, did not take place until after 28th October 2018. In addition, it is argued that to facilitate the creation of those dwelling units, construction works involving internal alterations and the enclosure of existing covered areas with infill panels, windows and doors took place outside the qualifying period.
14. Given the reference to 'constructed', the limitation at Class AA.1 (c) should, in my view, be interpreted as referring to the construction or erection of the building that is now used as a dwellinghouse, and whether that took place between 1st July 1948 and 28th October 2018.
15. The infilling works described by the Council do not amount to extending the dwelling, as the covered areas, when viewed in aerial images² submitted with the appeal, already existed prior to 28th October 2018. There is also evidence that those works had received retrospective planning permission³. Therefore, they were not created or incorporated in order to achieve the new dwellings. Furthermore, the sub-division of the building and internal layout changes described by the Council, amount in my view, to alterations rather than construction activities.
16. Even though the sub-division of The Paddocks and Misty Meadows to dwelling houses appears to have taken place after 28th October 2018 as suggested in an email submitted to the Council by the appellant's agent, there is no limitation within Class AA that excludes existing buildings that were subdivided into further dwelling houses after 28th October 2018 from exploiting the permitted right to construct another storey. Besides, the use of the appeal building as a dwelling house prior to 2018 is not a matter in dispute.
17. I conclude that the dwellinghouses at The Paddocks and Misty Meadows meet the qualifying criteria under Schedule 2, Part 1, Class AA.1 (c) of the GPDO and therefore the proposals under both Appeal A and Appeal B are permitted development as they relate to that part of the Order.
18. I will turn my attention, amongst other things, to whether the proposals in respect of Appeals A and B would comply with paragraph AA.2.(3)(a) of Class AA.

External Appearance

Appeals A, B and C

19. As previously indicated the Council did not assess the effect of the proposals, relating to Appeal A and B, against the matters at paragraph AA.2.(3)(a) of Class AA as they had already determined non-compliance with the limitations set out at paragraph AA.1(c) of Class AA. They nevertheless considered the scheme relating to Appeal C against that part of Class AA (specifically AA.2.(3)(a)(ii)), having determined that Meadow Mews met the limitations of paragraph AA.1(c). Given the similarities between the respective schemes in terms of their scale and siting, I have considered it reasonable in this instance to assess Appeals A and B in the same way. I also note that the appellant's notice of appeal statement has specifically referred to the matter of external appearance and considers all three proposals as satisfactory in this respect.

² Aerial image of the appeal building, imagery date 7/6/2018.

³ Local Planning Authority Ref 3/18/1316/HOU, approved 6 March 2019.

20. 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.
21. Located in a residential area close to rural fields, the appeal building is surrounded mostly by traditional buildings incorporating bricked walls and tiled roofs. The appeal building's flat roof profile contrasts markedly with the shallow roof spans typical of properties close by. Yet, its single storey height and position behind a landscaped boundary, bordering Ringwood Road to the east, means the existing building occupies a discreet position that is not visually prominent when viewed from surrounding vantage points and properties.
22. Although there are variations in terms of their dimensions, the dwellings in the terrace each cover roughly equal portions of its footprint. The central dwelling at Misty Meadows (Appeal A) is adjoined to the north by The Paddocks (Appeal B) and to the south by Meadow Mews (Appeal C).
23. The additional storey proposed at Misty Meadows would increase its height to around 7.26m and cover most of its width and length. The boxlike profile of the extension, accentuated by its elongated flank walls, would visibly jar and be wholly inconsistent with the scale and appearance of the shallow roof spans evident at dwellings bordering the appeal building, namely The Garden Room and No 165 Ringwood Road (No 165).
24. The proposed extension to The Paddocks would have a similar effect given the comparable scale and shape of the roof, whereas the incongruity in terms of the extensions' ungainly scale and profile would be brought into sharper focus due to the immediacy of the tapering pitched roof of "The Garden Room" to the south. The proposal's siting at the southern end of the terrace would also unbalance the appeal building giving it a discordant appearance when viewed from the neighbouring dwellings and the open spaces to the north and west.
25. The additional storey proposed at Meadow Mews would be smaller in area. Yet it would still cover a large portion of that dwelling's footprint and be around 7.26m in height. The extension's more prominent and bulky roof profile would appear unwieldy and have an unsettling presence upon the shallower and more tapering roof at No 165 to the north. The proposal would also have a similar disjointed effect to the scheme proposed at The Paddocks given its proximity at the end of the appeal building. This would make the appeal building appear lopsided and incoherent to the detriment of the locality's appearance.
26. Were I to allow all three appeals, and the approved works were implemented, the proposed extensions would adjoin each other creating a second storey of substantial scale across most of the terrace's existing roof. Given the appeal building's expansive length and width, the additional storey, would appear unduly bulky when viewed from open fields to the north and west as well as from windows and amenity areas relating to "The Garden House" and No 165. Its greater scale would rise above parts of the Ringwood Road boundary and be visible through gaps, thus becoming more obvious in the street. The appeal building's accentuated scale combined with the angular geometry of the additional storey would appear

jarring in contrast with the shallower, more refined roof forms of properties nearby. Because of this the combined effect of the proposals would disrupt the relative uniformity and consistency of the street scene and would result in a development that would as a whole appear visually incongruous within its surroundings.

27. It is acknowledged that the proposals in all three appeals, accord with Class AA's height parameters. However, this would not overcome my concerns relating to the external appearance which is a separate consideration under Class AA. Similarly, cladding the exterior of the additions to match the existing dwellings would not overcome the identified harm relating to external appearance.
28. The appellant has referred to No 165 obtaining planning permission for an additional storey. Whilst I do not doubt the existence of that consent, there are no details of that scheme's appearance before me, and I am unable to make a comparison with the appeal schemes. The matter therefore attracts limited weight.
29. I therefore find that the proposals in respect of Appeal A, B and C would have an unacceptable and harmful effect on the external appearance of the dwellinghouse, in conflict with paragraph AA.2(3)(a)(ii) of Class AA of Part 1 of Schedule 2 of the GPDO.

Other Matters

30. In the absence of any specific dispute between the main parties or area of perceived concern, I have been given no cause to determine Appeals A, B and C against the other conditions set out in paragraphs AA.2 of Class AA.

Conclusion

31. For the reasons set out above, and despite compliance with Paragraph AA.1.(c) of Class AA, I conclude that Appeals A, B and C should not succeed.

RE Jones

INSPECTOR