



Appeal Decision

Site visit made on 7 February 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/Q1445/D/22/3293561

27 Broad Rig Avenue, Hove BN3 8EW

- 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 Mr Mourad Mansour against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/04314, dated 6 December 2021, was refused by notice dated 9 February 2022.
 - The development proposed is the erection of an additional storey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), and not Schedule 2, Part 3, Class O, as indicated on the heading to the Council's decision notice.
3. However, the description of development in the banner heading above is taken from the Council's decision notice. This is more succinct than the description in the application form and avoids superfluous information. I do not consider that any party has been prejudiced by my approach.
4. Under Article 3(1) and Schedule 2, Part 1, Class AA(b) of the GPDO, planning permission is granted for the enlargement of a one storey dwelling house by the construction of one additional storey together with any engineering operations reasonably necessary for the purpose of that construction. This is subject to limitations and conditions set out in Paragraph AA.1 and Paragraph AA.2.
5. The Council has confirmed that the proposed development complies with all the limitations to the permitted development right set out in paragraph AA.1 and I have no reason to disagree. The application was refused on the basis of paragraph AA.2.(3)(a)(ii), which requires prior approval for the external appearance of the dwellinghouse, including the design and architectural features.

Main Issue

6. The main issue is whether prior approval should be given, having particular regard to the resulting external appearance of the dwellinghouse.

Reasons

7. The appeal property is a bungalow on the western side of Broad Rig Avenue, which generally comprises bungalows on both sides of the road. To reflect the prevailing topography of the area, those properties on the western side sit above the road, whereas those on the eastern side are set below road level. Furthermore, the building ridge heights are generally stepped down from north to south, to reflect the fall in land levels.
8. Several bungalows within the immediate vicinity of the appeal site have been subject to alteration or extension, including dormer loft conversions. Whilst these roof works have altered the appearance of individual buildings, they have largely been done within the roof levels of the property, rather than the introduction of a separate, additional storey. As a result, the original single storey nature and modest scale of the dwellings remains evident.
9. In contrast, the proposal would result in a significant addition of built form at the property, increasing its height and bulk. As a result, the proposal would be clearly distinguished from the other properties on the street, failing to integrate within the surrounds or to visually relate to the predominant form of neighbouring development. Comparatively, it would be of a greater scale than is common on the street and would appear unduly dominant.
10. I note that the proposed materials would reflect the existing dwelling and the upper floor would have a smaller footprint than the ground floor. However, the fenestration pattern and large areas of render on the front elevation would accentuate the visual effect of the building on the street scene. Overall, it would be read as being incongruous within the surrounding context.
11. Other two storey dwellings are nearby, some of which are visible from the appeal site. However, these are visually and physically separated from this part of Broad Rig Avenue. As such, the proposal would not be read in the context of these dwellings but alongside the more immediate properties in Broad Rig Avenue, against which it would appear out of place.
12. Overall, the external appearance of the dwellinghouse would be unacceptable and the proposal would be contrary to the requirements of paragraph AA.2.(3)(a)(ii) of Schedule 2, Part 1, Class AA of the GPDO.

Other Matters

13. I acknowledge that this is an amended scheme to address previous concerns raised by the Council. I have not been provided with full details of that scheme but understand that it did not comply fully with the conditions and limitations of the GDPO. Whilst this has been addressed in the current submission, the changes do not overcome the harm that I have identified.
14. The appellant refers to other sites which have received approval for what are said to be similar developments, some of which are within other local authority areas. However, I do not have the full details of those schemes before me and therefore cannot be sure that they represent a direct parallel, particularly with regard to the surrounding context and topography. I also note that most of these decisions pre-date the High Court judgement in CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin) which clarified the interpretation of Class AA. In any case, I have determined the appeal on its own merits.

15. City Plan Part 2 and its general support for the development of certain 'green' sites is referenced in the appellant's statement. However, this appeal is not determined on the basis of the duty in s38(6) of the Planning and Compulsory Purchase Act 2004 but rather the provisions of the GDPO. Local development plan policy is relevant only insofar as it may generally assist with forming the planning judgment required in relation to the application for prior approval.
16. The National Planning Policy Framework (the Framework) supports upward extensions. However, the Framework caveats this by stating that such development should be, amongst other things, well designed and respect the street scene. For the reasons I have set out, the development would not accord with the Framework in this respect.
17. I note that the existing roof pitch limits options for roof extensions, and that staying in the same property would enable the appellant to maintain social relationships and protect well-being. However, the weight I could attach to these factors is minimal and would in any event be insufficient against the harm that I have found and to which I ascribe substantial weight.
18. The appellant indicates that no communication was received from the Council until the decision notice was received. However, applications under the GDPO are not generally an iterative process but in any event, this is not a matter that falls within the remit of this appeal.

Conclusion

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

Stewart Glassar

INSPECTOR