



Appeal Decision

Site visit made on 4 April 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th April 2023

Appeal Ref: APP/A0665/D/22/3308685

6 Woodlands Road, Parkgate, Neston CH64 6RT

- 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 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Mark McDonald against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02443/PAA, dated 27 June 2022, was refused by notice dated 10 August 2022.
 - The development proposed is to extend the existing main part of the building at the first floor level with another floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given on the application form is extensive in detail. I have had regard to this detail in my assessment. However, for the purposes of my banner heading, I have shortened this description, coinciding with that used in the Council's decision notice.
3. Schedule 2, Part 1, Class AA of the GPDO, permits development consisting of the enlargement of a dwellinghouse by the construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys, together with any reasonably necessary engineering operations.
4. The Council concluded that the proposal would comply with the conditions and limitations set out under Class AA, such that it would fall within the scope of permitted development rights, subject to consideration of relevant matters of prior approval. On the evidence before me I see no reason to take a different view. They have however, raised concerns in respect of the effect of the development upon the external appearance of the host property and the amenities of the occupants of adjoining properties. My consideration of the appeal shall therefore focus on these matters.
5. The National Planning Policy Framework (the Framework) and Development Plan policies can be considered relevant in prior approval cases but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issues

6. The main issues in this appeal are whether prior approval should be granted under Class AA of Part 1 of Schedule 2 of the GPDO, having particular regard to the effect of the proposal on:
 - i) The external appearance of the dwellinghouse; and
 - ii) The amenity of adjoining occupants, in relation to outlook, privacy and light.

Reasons

External appearance

7. The existing two storey, detached dwelling is of simple rectangular form with a gabled roof running parallel to the road, together with a single storey garage to the front. It is situated within an estate development of two storey dwellings and bungalows of predominantly similar age and character with clear visual cohesion. The building is located on the junction of Woodlands Road and Woodlands Close with an almost identical dwelling to the south and a bungalow to the north.
8. 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 principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' In this respect, I have had regard to the appeals cited by the appellant suggesting that an assessment on the street scene is not a consideration. However, although I don't have the full details surrounding these cases from 2021, the courts have recently held that, where prior approval is required in relation to the effect of development on the 'external appearance' of a building or dwellinghouse, it will be a matter of planning judgment as to whether consideration is given to the effect in terms of the building's intrinsic design and/or to the effect in terms of the building's relationship with adjoining or nearby properties.¹ Furthermore, the use of the word 'including' in AA.2.(3)(a)(ii) means that the list that follows is not exhaustive. Therefore, consideration of external appearance can go beyond consideration of the principal elevation or any side elevation which fronts a highway.
9. Given the clear visual cohesion between the appeal dwelling and that of neighbouring dwellings in this instance, the surroundings are a relevant aspect of the consideration of the effect of the proposal on the appeal property's external appearance.
10. Despite the matching form and materials, the proposed additional storey would result in a building with a significantly different bulk, height and scale to others in the immediate vicinity. The building would stand noticeably higher than surrounding structures, disrupting the homogeneity of the built form in the area. It would be a discordant feature out of context with its immediate surroundings and would have a particularly disproportionate relationship to the adjoining bungalow. Although mature planting to the front would filter some views of the proposed development it would still be clearly viewed, especially along Woodlands Close where the shared orientation of dwellings would make

¹ CAB Housing Ltd v SSLUHC and Broxbourne BC [2023] EWCA Civ 194.

the considerable stepping up in height and the blank upper gable most noticeable.

11. The mis-matched arrangement of windows and rendering across the whole of the front elevation would also disrupt the architectural balance with the adjoining two storey dwelling and make it noticeably different and discordant. Whilst the window dimensions could be amended, I have no details of this and in any event, it would not override the significant harm the overall proposal would have on its immediate surroundings, undermining the character and appearance of the streetscene.
12. By introducing Class AA permitted development rights the Government clearly intended a degree of change to residential properties in certain situations. However, that right is qualified by the need to apply for prior approval for a range of matters. I have already noted that in this case I find it reasonable to take account of the design of the dwelling and neighbouring properties in making my assessment. I have no doubt that there will be situations where an upward extension would be suitable but, for the reasons set out, this is not one of them.
13. Consequently, the proposal would not add to the overall quality of the area or be sympathetic to the surrounding built environment. I therefore find that the proposal would not comply with paragraph AA.2(3)(a)(ii) of Class AA of Part 1 of Schedule 2 of the GPDO, which relates to the external appearance of the dwellinghouse.

Amenity of adjoining occupants

14. The appeal property and the adjoining buildings have a staggered building line with 4 Woodlands Road (No.4) being closer to the road than the appeal property and 14 Woodlands Close set further back. All 3 properties have south-west facing gardens and therefore the proposed extra storey would only be likely to cause additional loss of light to the rear garden of No.4. This would be likely to occur for a short period when the sun is low in the sky during the morning. Nevertheless, the area of garden nearest to the rear of No.4, which is a paved seating area and likely to be in regular use, would be the area most affected by the loss of light. I have no adequate information regarding loss of light to any adjoining windows but in this respect any impact is likely to be very minimal.
15. Given the considerable difference in scale between the bungalow and the proposed three storey building, and their close proximity, the sheer increase in height and massing would have an overwhelming, overbearing presence on the occupants of No.4 in their rear garden. Again, this would be most perceptible from the rear paved seating area and occupants would be very aware of the looming presence of the elevated building.
16. Views from the rear of the appeal dwelling are predominantly directed along its own garden, with some flanking views across the further parts of adjoining gardens. Whilst the angle of those views would not change, the elevated vantage point arising from the appeal proposal would allow a greater degree of overlooking of adjoining gardens resulting in a loss of privacy as well as a perception of being overlooked. Adjoining buildings and some intervening planting to the boundaries would be of such diminished height that they would not mitigate the ability to gain more direct views into these garden areas and

especially in relation to views closer to the rear of No.4. As such I consider that the proposal would cause an unacceptable level of harm to their living conditions.

17. For these reasons, I therefore find that the proposal would have a harmful effect on the amenity of adjoining occupants, in relation to outlook, privacy and light. It would therefore not comply with paragraph AA.2(3)(a)(i) of Class AA of Part 1 of Schedule 2 of the GPDO.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed, and prior approval is not granted.

G Bayliss

INSPECTOR