



Appeal Decision

Site visit made on 4 April 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/R0660/D/23/3314106

Oakfields Bungalow, Newcastle Road, Weston, Cheshire CW2 5PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
 - The appeal is made by Mr & Mrs Nevitt against the decision of Cheshire East Council.
 - The application Ref 22/4026N, dated 11 October 2022, was refused by notice dated 29 November 2022.
 - The development proposed is a first floor extension built off original masonry forming the footprint of the original dwelling (bungalow).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a first floor extension built off original masonry forming the footprint of the original dwelling (bungalow) at Oakfields Bungalow, Newcastle Road, Weston, Cheshire CW2 5PX in accordance with the terms of the application, Ref 22/4026N, dated 11 October 2022, and the details submitted with it, including drawing no's OB_NR_01, OB_NR_02, OB_NR_03 and OB_NR_04, and subject to the standard conditions set out in sub-paragraphs AA.2.(2) and AA.2.(3) of the GPDO.

Application for costs

2. An application for costs was made by Mr & Mrs Nevitt, against Cheshire East Council. This application is the subject of a separate decision.

Procedural matters

3. I have taken the site address from the decision notice. Although different from the wording used on the application form, it is consistent with that shown on the appeal form.
4. The proposal is to be assessed as a prior approval application as set out within the parameters of the Town and Country Planning (General permitted development) (England) Order 2015 (as amended). As a prior approval there are two stages to the assessment – the first being eligibility. The Council conclude that the proposal is eligible to be considered under the prior approval process and have not raised any conflict with the conditions set out in the GPDO. I have no evidence before me to conclude differently so, in that regard, the focus of this appeal will be the second stage of assessment – the prior approval merits assessment.

5. The Council refused prior approval on the basis that the development would result in a substantial additional built form to the existing building resulting in a significant impact on the openness of the area. Furthermore, they were of the view that the external appearance of the dwellinghouse would conflict with the openness and unspoilt character of the Green Belt and the locality in general. However, the matters set out within Paragraph AA.2(3)(a) of Class AA of Part 1 do not include the effect of the development on a Green Belt, including any impact on openness. This reflects the fact that permitted development rights are not withdrawn by the GPDO either in total or in part within Green Belts. That said, I am required to consider the impact of the proposed development on the external appearance of the dwelling.
6. In making my assessment of the merits of the proposal I have taken into account the judgement made in the High Court¹ regarding the interpretation of Class AA of Part 1 of the GPDO. This judgement confirmed that "external appearance" of the dwelling house is not limited to its principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations. Moreover, it indicates that control of the external appearance of the dwelling is not limited to the impact on the subject property itself, but also includes impacts on neighbouring premises and the locality.

Main Issue

7. The main issue in this appeal is whether prior approval should be granted, having particular regard to paragraph AA.2 (3)(a)(ii) of the GPDO and the external appearance of the dwellinghouse.

Reasons

8. The appeal property is a single storey dwelling located at the south-eastern end of a small collection of residential and commercial properties. The land directly adjacent the settlement is in agricultural use, with fields enclosed by hedgerows.
9. The properties in the immediate locality have a range of designs, some of which have been extended, resulting in a varied pattern of buildings in terms of location, scale, and design. They use a varied palette of materials.
10. The design and architectural features of the proposed development, with particular reference to the front elevation, would remain as existing, albeit at a higher level. Moreover, the proposal would be of a scale and appearance that would be in keeping with properties within its immediate surroundings. It would be seen in the context of the neighbouring properties, which are predominantly two storeys in height, and as a result it would not appear as a prominent or discordant feature within the street scene. Consequently, the proposal would not harm to the external appearance of the host property or its immediate surroundings.
11. Accordingly, on this main issue, I conclude that prior approval should be granted.

¹ GPDO Class AA and "External Appearance": CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

Conditions

12. The Council have suggested that in the event of this appeal being allowed conditions should be imposed requiring the development to begin no later than three years from the date of the decision, the materials to be used in the construction of the external surfaces to match those used in the existing building and compliance with the approved plans.
13. The conditions set out in paragraphs AA.2(2)(a) requires the materials to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
14. The omission of windows in any wall or roof slope forming a side elevation and the roof pitch of the principal part of the dwellinghouse to be the same as the roof pitch of the existing house are requirements of the conditions set out in paragraphs AA.2(2)(b) and (c). The submitted drawings indicate compliance with these requirements.
15. The completion of the development within three years is a requirement of paragraph AA.2(3)(c) of the GPDO.
16. The developer is required to provide the local authority with a report for the management of the construction of the proposed development in order to comply with paragraph AA.2(3)(b) of the GPDO.
17. The developer is required to notify the local authority of the completion of the development in order to comply with paragraph AA.2(3)(d) and (e) of the GPDO.

Conclusion

18. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed, and prior approval granted subject to conditions.

John Gunn

INSPECTOR