



Appeal Decision

Site visit made on 13 June 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/V2635/D/22/3299021

Nursery Lodge Farm, The Street, Syderstone, Kings Lynn, Norfolk

PE31 8SD

- 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 appeal is made by Mr & Mrs M Cooper against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/02465/PAGPD, dated 14 December 2021, was refused by notice dated 23 February 2022.
 - The development proposed is enlargement of dwellinghouse by construction of an additional storey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class AA(b) of the GPDO permits development consisting of one additional storey where the existing dwellinghouse consists of one storey, together with any engineering operations reasonably necessary for the purpose of that construction. In the interests of clarity and conciseness, I have amended the development description to reflect the provisions of Class AA of Schedule 2, Part 1 of the GPDO.
3. Development in Class AA is subject to the conditions at Paragraph AA.2. Of particular significance in this appeal is AA.2(3)(a) which requires the local planning authority's prior approval as to the development's impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, taking into account representations received. My determination of the appeal has been made on the same basis.

Main Issues

4. The main issue in this appeal is therefore whether the proposal would be permitted development under Schedule 2, Part 1, Class AA of the GPDO, with particular regard to the amenity of any adjoining premises including overlooking, privacy and the loss of light.

Reasons

5. The proposed upward extension would form a first floor to the appeal property, with several windows along the wide front and rear elevations.

6. The appeal property is set back from neighbouring bungalow 'The Griffins'. A brick wall and close-boarded fence along the side boundary prevents overlooking between the plots at present. However, from the proposed first-floor windows, The Griffins' rear elevation and parts of the back garden would be visible above the height of the boundary fence and garden wall. A floorplan of The Griffins has not been provided. However, it is expected that windows along the rear elevation would serve habitable rooms.
7. A degree of overlooking of gardens is not uncommon in residential areas. However, occupants would have a greater expectation of privacy in the garden area to the immediate rear of dwelling. This area of the garden would be visible from the proposed extension. Through increased overlooking of habitable rooms and the rear garden, the proposal would result in a loss of privacy for the occupants of The Griffins. Overlooking could not be avoided through use of obscure-glazing and restricted opening of windows secured through a planning condition, since the first-floor windows would serve habitable rooms.
8. To the front of the appeal property is a dwelling, 'The Nurseries', and its rear garden. Whilst the front elevation of the proposed extension would face the rear elevation of The Nurseries, the appeal property's front garden, driveway, detached double garage, and a tall close-boarded fence provide separation. Due to the distance and existing screening, the proposal would not result in overlooking or loss of privacy for occupants of The Nurseries.
9. To the west of the appeal property is Beechwood Court, a cul-de-sac development of two-storey dwellings. Views from the appeal site to Beechwood Court are generally obscured by a row of tall, dense trees along the side boundary. The solid, brick flank wall of a dwelling is positioned at a break in the row of trees further obscuring views through to Beechwood Court. The proposal would not therefore result in overlooking or loss of privacy for occupants of Beechwood Court.
10. No substantive evidence has been submitted regarding the proposal's effects on daylight or sunlight. Due to the siting of an existing detached garage adjacent to boundary near the appeal property's side elevation, I consider the proposal would not overshadow The Griffins, and dwellings at Beechwood Court would not experience a loss of light due to the existing tree belt and hedgerow along the site boundary. The Nurseries would not be overshadowed due to the distance between it and the appeal property. The proposal would not therefore result in a loss of light for occupants of adjoining premises.
11. As per the provisions of the GPDO, I have considered the effects of the proposal on the amenity of adjoining premises, having particular regard to overlooking, privacy and the loss of light. As set out above, the proposal would result in the overlooking of habitable rooms and the rear garden of The Griffins, which would result in an unacceptable loss of privacy for its occupants. Insofar that it is relevant to matters of amenity, having regard to the Framework, paragraph 130 requires new development to provide a high standard of amenity for existing users and not undermine quality of life. For these reasons, prior approval should not be granted.

Other Matters

12. The appellant refers to the statutory period within which a decision must be made by Council, as set out at Article 7 of the GPDO, indicating the application

was determined 71 days after its submission. At part 1, paragraph AA.3(13), the GPDO states that development under the provisions of Class AA must not begin before the receipt by the applicant from the local planning authority of a written notice giving their prior approval. As such, the statutory period is not applicable to the appeal scheme and prior approval is not deemed to be granted.

13. At paragraph AA.3(2), the GPDO sets out the documents required as part of the application, including existing and proposed elevations. Paragraph AA.2(3)(b) requires a report for the management of the construction of the development be submitted prior to beginning the development. Whilst not a validation requirement, submission of the construction management report at an earlier stage does not necessitate a different outcome in respect of the issues set out above.
14. The appellant has raised concerns regarding the Council's approach when determining the application for prior approval, the height of the proposal in respect of surrounding development, and consistency when considering separation differences between different schemes. As set out above, my assessment has focussed on the effects of the appeal proposal on the amenity of adjoining premises, and in this regard, I have identified harm.

Conclusion

15. For the reasons given, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR