



Appeal Decision

Site visit made on 20 June 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2023

Appeal Ref: APP/D1590/D/22/3307589

66 Willingale Way, Southend-on-Sea, Thorpe Bay SS1 3SN

- 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 Mustafa Ahmed against the decision of Southend-on-Sea Borough Council.
 - The application Ref 22/01448/EDAS, dated 14 July 2022, was refused by notice dated 9 September 2022.
 - The development is described as "The proposed development is for an upwards extension to create an additional floor at 66 Willingale Way, Southend, Essex SS1 3SN".
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Decision

1. The appeal is dismissed.

Main Issue

2. There is no dispute between the main parties that the proposed development would be permitted under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), provided it would meet the conditions set out at paragraph AA.2 of the Order.
3. There is also no dispute between the main parties that the proposal would not result in any conflict with conditions AA.2 (3)(a): (i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, (iii) air traffic and defence asset impacts of the development; and (iv) whether, as a result of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State.
4. From the evidence before me, there is nothing to lead me to a different conclusion in respect of these matters.
5. Therefore, the main issue is whether prior approval should be granted when the proposed development is assessed against condition AA.2 (3)(a)(ii) of the GPDO, in relation to the external appearance of the dwellinghouse.

Reasons

6. The appeal property comprises a detached, two-storey dwelling that forms part of a housing estate of dwellings constructed circa 1970 that have a similar appearance, even though some have been extended and altered. The dwellings

in the surrounding area predominantly have two-storeys, although there is a cul-de-sac of bungalows opposite the appeal site.

7. The proposal would add a third storey to the host dwelling. The additional storey would replicate the existing roof profile, including a similar pattern of fenestration to that of the floors below and would use matching external materials. However, the positioning of the third storey windows would not adhere to the design and architectural features of the existing dwelling or the surrounding dwellings whereby the eaves adjoin the top of the windows. This would be out of character with the host dwelling and unsympathetic to the surrounding area.
8. The resulting three-storey dwelling would appear incongruous in its predominantly two-storey surroundings. Given the high degree of similarity in the existing dwellings in the immediate surroundings, the harm to the character and appearance of the area arising from the proposal's design, height, scale and size would be significant. Furthermore, it would be prominent when viewed from Willingale Way, as well as from Fortescue Chase to the north, where it would be seen in the context of other two-storey dwellings.
9. In conclusion, for the reasons outlined above, the proposed additional storey would result in an unacceptable impact on the external appearance of the dwellinghouse and the surrounding area.

Other Matters

10. Concern has been raised regarding the Council's interpretation of AA.2 (3)(a)(ii) in its consideration of the proposal with regard to its height and the appeal property's immediate context and wider area. However, the CAB Housing judgement¹ has concluded that "scale" is not excluded as a relevant consideration in the prior approval process under paragraph AA.2(3)(a); that the possible effects on the "external appearance of the dwellinghouse" under sub-paragraph (3)(a)(ii) will not necessarily be limited to the changes to its principal elevation or to any side elevation fronting a highway; and that the likely effect of the proposed development on "external appearance" is not implicitly confined to effects on the dwellinghouse which is to be extended, and that effects on the surrounding area must not be ignored. Therefore, the Council's consideration of the proposal is entirely consistent with the CAB Housing judgement.

Conclusion

11. For the reasons above, the appeal should be dismissed.

A Berry

INSPECTOR

¹ Cab Housing v The Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 208 (Admin)