



Appeal Decision

Site visit made on 12 July 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/J3720/D/23/3316404

Mulberry Croft, Birmingham Road, Bishopton, Warwickshire CV37 0RN

- 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 Powles against the decision of Stratford-on-Avon District Council.
 - The application Ref 22/03576/AAPA, dated 5 December 2022, was refused by notice dated 20 January 2023.
 - The development proposed is prior notification under Schedule 2, Part 1, Class AA for proposed enlargement of bungalow by construction of an additional storey.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('GPDO') for proposed enlargement of bungalow by construction of an additional storey at Mulberry Croft, Birmingham Road, Bishopton Warwickshire CV37 0RN in accordance with the details submitted pursuant to Schedule 2, Part 1, Class AA of the GPDO through application Ref 22/03576/AAPA, dated 5 December 2022, and in accordance with the conditions set out under paragraphs AA.2 (2) and (3) of Class AA of the GPDO.

Preliminary Matters

2. The Council has referred to development plan policies from the Stratford-on-Avon District Core Strategy 2011 to 2031 ('CS'). As the principle of development has been established through the grant of permission by the GPDO, prior approval appeals are not determined on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. However, I have taken the development plan policies into account insofar as they are relevant to the prior approval matter under consideration.
3. The Council has queried the extent of the curtilage to the existing dwellinghouse. Notwithstanding the appeal site, as edged red on the submitted location plan, my Decision only relates to matters pursuant to approval required under Article 3(1) and Class AA of Part 1 of Schedule 2 of the GPDO.
4. Under Article 3(1) and Class AA of Part 1 of Schedule 2 of the GPDO, planning permission is granted for the enlargement of a dwellinghouse by construction of additional storeys. This is subject to certain limitations and conditions.
5. One such condition under paragraph AA.2.(3)(a)(ii) is that before beginning the development, the developer must apply to the local planning authority for prior

approval as to 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;.

6. In addition to paragraph AA.2.(3)(a)(ii), the Council's reason for refusal refers to the effect of the proposal on the scale and design of the dwellinghouse, in particular through the introduction of dormer windows, and on the rural setting of the area.
7. Having regard to the CAB Housing Ltd¹ judgment, I acknowledge that the control of the external appearance of the dwellinghouse is not limited to this, but also includes the impact on the locality.
8. Accordingly, the main issue is whether prior approval should be granted under Class AA of Part 1 of Schedule 2 of the GPDO, with regard to the effect of the proposal on the appearance of the appeal property and the locality.

Reasons

9. The appeal property comprises a modern, extended, single storey dwellinghouse of a bespoke design. This is accessed off Birmingham Road ('A3400') via a gated access and driveway.
10. The appeal site lies within the countryside which also forms part of the Arden Special Landscape Area ('SLA'). The SLA is an area specially designated for its high landscape value which acknowledges its 'Ancient Arden' landscape characteristics, rolling countryside with a range of field patterns with hedgerows and trees.
11. In the vicinity of the appeal site, the landscape comprises gently undulating agricultural fields of varying sizes enclosed by mature vegetation. Even so, the appeal site incorporates an established residential property with a sizeable hardstanding area in front of it used for vehicle parking and other buildings close by, such as stables. There are also a limited number of dwellings in the local area of various sizes with no apparent local vernacular.
12. Particularly, when travelling along the A3400, the appeal site because of its gated access, driveway and associated built form is discernible as a developed area within the countryside. Furthermore, its visual impact on the wider area is mitigated by its setback from the A3400 and established boundary treatments in the form of fencing and mature landscaping.
13. Moreover, the dwellinghouse is also viewed in the context of another two storey dwellinghouse and the sizeable modern commercial garage to the south of it and the highway, which form part of the site's setting.
14. Drawing on the above reasons, the surrounding area is of a rural and varied character. Also, because of its developed nature, the appeal site's contribution to the landscape quality of the SLA is limited.
15. Given the nature of the proposal, it is inevitable that there would be some increase in scale. The proposed increase in height is commensurate with the addition of a further storey and the associated massing is proportionate to this.

¹Cab Housing Ltd v SSLUHC [2022] EWHC 208 (Admin)

Also, the hipped design of the roof of the dwellinghouse, as extended would limit its scale and massing.

16. The proposed dormer windows on the front elevation broadly align with the windows below them. Although the dormer windows are slightly larger than the lower windows, the former are proportionate to the proposed roof and subservient to the overall scale of the property, as extended and therefore of an acceptable design.
17. As extended, the dwellinghouse would be larger and more apparent in some views from the A3400 and adjoining land. Despite this, one of the conditions of Class AA is that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Therefore, the extended dwellinghouse would reflect the appearance of the original dwellinghouse and would be of bespoke design.
18. Furthermore, the extent of the developed area immediately surrounding the dwellinghouse and associated mature landscaping, along with nearby development would assist the extended dwellinghouse to assimilate with its setting.
19. Consequently, the dwellinghouse, as extended, would be of an acceptable appearance and would not be unacceptably conspicuous in its varied local context, which includes the SLA.
20. Therefore, the proposal complies with condition AA.2 3)(ii) insofar as this relates to the external appearance of the dwellinghouse and the effect of this on the locality.
21. Accordingly, I find no conflict with the design aims of policies CS.9, CS.12 and CS.20 of the CS, to the extent these are relevant to the prior approval matter under consideration.
22. The submissions before me include a decision on a dismissed appeal (Ref 3305379) relating to a planning application for alterations and extensions to the appeal property. However, the proposal before me is for 'prior approval' As such, the considerations in the determination of the appeal before me are different. Therefore, I attach limited weight to the dismissed appeal.
23. The Council's submissions confirm that the proposal accords with all other limitations and conditions under Class AA of Part 1 of Schedule 2 of the GPDO. I have not found anything to dispute this.
24. Paragraph AA.2. of Class AA of the GPDO states that development is permitted by Class AA subject to the conditions set out in sub-paragraphs (2) and (3). Therefore, it is not necessary for me to specify these as part of my Decision.
25. For the above reasons, the proposal is permitted development under Class AA of Part 1 of Schedule 2 of the GPDO. I, therefore, conclude that the appeal should be allowed, and prior approval be granted.

M Aqbal

INSPECTOR