



Appeal Decision

Site visit made on 27 June 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/B5480/D/22/3312017

65 Benets Road, Havering, Hornchurch RM11 3PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required 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 Andrew Lloyd against the decision of the Council for the London Borough of Havering.
- The application Ref J0016.22, dated 5 July 2022, was refused by notice dated 16 September 2022.
- The development proposed is an additional storey.

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 (i) of the Town and Country Planning GPDO 2015 (as amended) for an additional storey at 65 Benets Road, Havering, Hornchurch RM11 3PT in accordance with the terms of the application, Ref J0016.22, dated 5 July 2022, and the details submitted with it, including Drawing Nos 710/A01, 710/A02, 710/A03, 710/A04, 710/A05, 710/A06 and 710/A07 and subject to the standard conditions set out in subparagraphs AA.2.(2) and AA.2.(3) of the GPDO and the following additional condition:
 - The extension hereby permitted shall not be occupied until the windows at first floor of the front elevation have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Preliminary Matters

2. The Council initially considered that the scheme would not be a lawful development given that the existing property had not been built in accordance with the approved plans for planning application P0619.16. However, since the Council decision the appellant has submitted an application for a lawful development certificate¹ which has been issued by the Council in January 2023. The Council have subsequently confirmed that they have withdrawn the third reason for refusal. Therefore, I have confined my assessment of this appeal scheme to the remaining reasons for refusal.

¹ LB Havering Planning Ref: E0043.22

3. The description of development cited in the planning application form differs to that contained within the decision notice and the appeal form. There is no evidence any change was formally agreed. For the purposes of the appeal and in the interest of clarity I rely upon the description on the application form for the purposes of the appeal as detailed in the heading and paragraph 1 above.
4. The reasons for refusal refers to '*Town and Country Planning (General Permitted Development)(England) Order 2020 [as amended]*', which is evidently a typographical error. The relevant section should refer to Schedule 2, Part 1, Class AA of the '*Town and Country Planning (General Permitted Development) (England) Order 2015 as amended*'. As no parties' interests would be prejudiced, I have assessed the scheme against the GPDO 2015 as amended.
5. The provisions of the GPDO as amended, under Article 3(1) and Schedule 2, Part 1, Class AA.2.(3)(a) requires the Local Planning Authority (LPA) to assess the proposed development on the basis of its impact on the amenity of any adjoining premises and the external appearance of the dwellinghouse, taking into account any representations received. My determination of this appeal has been made on the same basis.

Background and Main Issues

6. Schedule 2, Part 1, Class AA of the GPDO, permits development consisting of the enlargement of a dwellinghouse by construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys, or one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the LPA.
7. The Council's reasons for refusing the application are that the proposed development would be harmful to the amenity of adjacent occupiers and would appear incongruous and out of character within the surrounding area, therefore prior approval cannot be granted as it falls outside the scope of Class AA. In view of the above, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class AA of the GPDO.

Reasons

8. The appeal property is located on the northern side of Benets Road, set back from the main streetscene including the adjoining properties of Nos 63 and 67. The existing property is a chalet bungalow style development with accommodation in the roof space, finished with contemporary materials. The rear of the appeal site abuts a large open space. Benets Road is a residential area consisting of generally two-storey developments in a traditional style, although several properties have additional living accommodation in the roof space, through the provision of rear roof dormer extensions.
9. The proposal seeks an additional storey, providing an appearance of a two-storey development with accommodation in the roof space and in this regard the proposal would not be considered out of keeping in the streetscene, despite its set back location. The design and architectural features of the proposed development, with particular reference to the front elevation, would be similar to the existing, albeit at a higher level with the addition of a bathroom window.

Nevertheless, the scale and appearance would be in keeping with properties within its immediate surroundings. It would be seen in the context of the neighbouring properties and would not appear as a prominent or discordant feature within the street scene. Consequently, the proposal would not harm the external appearance of the host property or its immediate surroundings.

10. The appeal proposal would be located to the north of the dwellings in Benets Road and as such it is unlikely to have a significant loss of light through overshadowing.
11. Whilst the proposal would be noticeably taller than the existing property, given its sympathetic design approach it would not appear jarring. In this regard, whilst the degree of change would be noticeable, it would be contextual, and therefore it would not be overbearing from that currently experienced in the area, and would not be visually harmful to the living conditions of occupants of the adjoining properties.
12. In terms of privacy, the scheme would provide additional windows and openings in the new floor. The openings at the rear of the site would provide views of the open fields at the rear of the premise and would create no issues of overlooking or loss of privacy for neighbours. The proposal also provides a new first floor window to the front of the site which serves a bathroom, which could create a perception of additional overlooking and loss of privacy to neighbouring properties. However, the plans before me highlight that this window is to be obscured glazed. This can be secured by way of a condition, and as such the proposal would not unduly harm the neighbours' enjoyment of their properties due to an unacceptable increase in loss of privacy.
13. For the above reasons, I conclude that the impact of the proposal on the amenity of existing neighbouring properties in relation to overlooking, privacy and the loss of light would be limited and acceptable. The proposal would be consistent with Paragraph 130 f) of the National Planning Policy Framework which, amongst other things, seeks a good standard of amenity for all existing and future occupants of buildings, in so far as it is a material consideration relevant to the impact on the amenity of the existing building and neighbouring premises as contained at Paragraph AA.3(12)(b) of the GPDO.
14. 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.

Conditions

15. Planning permission granted for development under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO is subject to conditions set out in paragraphs AA.2(2) and (3) of that Class. Paragraph AA.3(15) of Part 1, Class AA further states that the LPA may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. As such, in the interests of the living conditions of the nearby residents I have attached a condition requiring the first-floor front bathroom window to be obscured glazed, for the lifetime of the development.

Conclusion

16. 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.

Robert Naylor

INSPECTOR