



Appeal Decision

Site visit made on 12 June 2023 by Darren Ellis MPlan MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/A0665/D/23/3316202

10 Old Lane, Pulford, Chester CH4 9EW

- 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 and 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 M Foster against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02542/PAA, dated 17 June 2022, was refused by notice dated 17 November 2022.
 - The development proposed is 'Roof level raised by no higher than 3.5m. Raised roof configuration to match the existing. Existing wall construction raised to suit and finished in render to match the existing. New window openings to the front elevation to align with the existing.'
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for 'Roof level raised by no higher than 3.5m. Raised roof configuration to match the existing. Existing wall construction raised to suit and finished in render to match the existing. New window openings to the front elevation to align with the existing' at 10 Old Lane, Pulford, Chester CH4 9EW, in accordance with the application Ref 22/02542/PAA, subject to the conditions set out in section AA.2 of Class AA and the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Details drawing no. 2214-02 Revision A3.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits development consisting of the enlargement of a dwellinghouse by construction of one additional storey, where the existing dwellinghouse consists of one storey, together with any reasonably necessary engineering operations.
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4. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority. Paragraph AA.2.(3)(a)(i) of Class AA requires prior approval to be sought for 'impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light.'
5. During the application stage, the appellant submitted amended drawings with the rear elevation of the proposed additional storey set back from the existing rear wall of the house. It is not clear from the decision notice or the delegated report whether the decision was based on the original or amended drawings, however with its appeal submission the Council sent in both the original and amended drawings, with the original drawings labelled as 'superseded'. I have therefore proceeded on the basis that the Council's decision was based on the amended drawings, and have assessed the appeal accordingly.

Main Issue

6. The main issue is whether prior approval should be granted for the impact on the amenity of any adjoining premises.

Reasons for the Recommendation

7. The appeal site consists of a detached bungalow at the end of a run of properties on Old Lane. The property is set back slightly from the adjacent neighbour at No 9, which is a two-storey dwelling. The proposal would add an additional storey to the appeal property, which would project beyond the rear first-floor wall on No 9 nearest to the appeal property. This wall contains a window which, according to the Council, serves a habitable room.
8. Part of the proposed additional storey would breach the 45-degree guideline as set out in paragraph 4.2 of the SPD. However, I note this rule applies to two-storey rear extensions. Paragraph 4.2 also refers to first-floor rear extensions but there is no mention of additional storeys. Nevertheless, an additional storey in this location would have a similar effect on the rear windows of No 9 as would a first-floor rear extension, and as such the 45-degree guideline would be a suitable tool to assess the effect of the proposal on the occupiers of No 9.
9. One corner of the proposed additional storey would breach the 45-degree line from the nearest rear window at No 9. However, the proposal would incorporate a hipped roof which would be at its lowest point where it breaches the 45-degree line, with the highest part of the roof behind the 45-degree line. Furthermore, both the appeal property and the window at No 9 are set in from the boundary, and this separation would reduce the impact of the extension on the window at No 9. Overall, the design of the roof, the limited breach of the 45-degree line and the separation between the buildings would mitigate the effect on the outlook from No 9, and as such the proposal would not adversely impact the amenity of No 9. Consequently, I find that the proposal would accord with the requirements of paragraph AA.2.(3)(a)(i) of Class AA.

Other Matters

10. The submitted drawings show the position of the appeal property in relation to No 9, the existing and proposed elevations, any proposed windows, and has been drawn to scale. As such I am satisfied that sufficient detail has been provided to appropriately assess the proposal and its effect on No 9. In

addition, I have no substantive evidence before me to indicate that the existing property, including its foundations, is not structurally capable of supporting the proposed additional storey. Furthermore, Issues around restrictive covenants and boundary fencing and hedging are private matters to be resolved between the relevant parties and fall outside the scope of this appeal.

11. The additional storey would replicate the existing ground floor design and fenestration when viewed from the front and the street, the roof pitch would be the same as the existing roof, and no notable architectural features would be lost as a result of the proposed additional storey. The street has a mix of bungalows and two-storey dwellings, with No 9 being two-storeys in height. Overall, the proposal would not cause any harm to the character and appearance of the dwellinghouse or the wider street scene.

Conditions

12. Standard conditions are set out in paragraph AA.2 of Class AA, whilst paragraph AA.3.(15) allows further conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council suggested a condition which mirrors the condition set out in paragraph AA.2.(3)(b). As this condition is automatically applied to prior approvals in Class AA it is not necessary to attach it as a separate condition. As amended drawings were submitted during the application process, a condition is required to specify the approved drawings in order to provide certainty.

Conclusion

13. For the reasons given above the proposal would conform to the requirements and criteria of Schedule 2, Part 1, Class AA of the GPDO. I therefore recommend that the appeal should be allowed, and prior approval granted, subject to the conditions set out above and in Schedule 2, Part 1, Class AA of the GPDO.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed, and prior approval granted subject to the conditions set out above and in Schedule 2, Part 1, Class AA of the GPDO.

John Morrison

INSPECTOR