



Appeal Decision

Site visit made on 4 September 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/M5450/D/22/3305831

21 The Avenue, Hatch End HA5 4EN

- 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 and Mrs Bakeirathan against the decision of the Council of the London Borough of Harrow.
The application P/0542/22/PRIOR, dated 16 February 2022, was refused by notice dated 24 August 2022
 - The development proposed is additional storey (height 2.6m) to a dwellinghouse - maximum overall height 9.30m (Prior approval of impact on the amenity of any adjoining premises; the external appearance of the dwellinghouse; air traffic and defence asset impacts and impact on a protected view)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) allows for up to two additional storeys to a dwellinghouse, subject to limitations and conditions set out under Class AA.1 and Class AA.2. The Council's concern relates only to the conditions of paragraph AA.2(3)(a)(i). This requires consideration of the impact of the development on the amenity of any adjoining premises including overlooking, privacy and the loss of light.
3. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

4. The main issue is whether or not prior approval should be granted, having regard to the living conditions of neighbouring occupiers at No. 19 The Avenue with particular regard to outlook.

Reasons

5. The site is a detached bungalow with accommodation in the roof located on The Avenue. The surrounds are residential, with dwellings of varying scales, styles and designs. The neighbouring No. 19 The Avenue towers over the appeal property and reads as a dwelling with three storeys of accommodation

space. Its facing elevation contains large windows at ground and second floor, along with windows and glazed doors at first floor level, leading to a balcony.

6. The proposal seeks to erect an additional storey at the appeal property, on the footprint on the main dwelling. It would retain the pitched roof style currently present at the property, and would remain at an overall lower height than the dwelling at No. 19. Nevertheless, it would result in additional development close to the side elevation of No. 19 where, above ground floor level, it would read as a solid and featureless expanse of built form.
7. I note the separation between the Nos. 19 and 21, which is comparable to that between neighbouring dwellings elsewhere in the street, many of which are taller than the appeal property. However, while the pitched roof would ensure that ample separation remains between the appeal property and the upper most side elevation windows at No. 19, the intervening gap would be much smaller at the lower floors. The proposal would introduce a notable element of height that would rise above the boundary fencing between the properties and be readily visible from the ground and first floor facing windows of No. 19, reading as visually overbearing.
8. The Residential Design Guide Supplementary Planning Document 2010 (the SPD) defines a 'protected' window as the principal source of outlook from a habitable room. In this regard, the ground floor windows of No. 19 facing the site appear to be the only windows serving the associated room, and the facing first floor windows appear to be the main windows serving that associated room. The SPD states that the height of any new extension adjoining a 'protected' window should not interrupt an upward plane angled at 45° from the lower edge of the glazed area of that window. It appears from the submitted plans that this is met by the proposal. However, this is guidance rather than policy, with the SPD stating that it forms only part of the overall assessment.
9. Notwithstanding the retained upward plane, due to its proximity, the additional scale of the built form of the scheme as experienced from the facing ground and first floor windows at No. 19 would create an undue sense of enclosure. As such, the proposal would reduce the enjoyment of these rooms for the residents of No. 19. This would be worsened by the limited outlook provided elsewhere in the rooms served by these facing windows. Even acknowledging the built-up nature of the surrounds, the resulting level of restricted outlook that would be provided for these habitable spaces would impact on the living conditions of neighbouring occupiers at No. 19 to an unacceptable degree.
10. Overall, the proposal would result in significant adverse impacts on the living conditions of residents of No. 19 The Avenue with regard to outlook and as such would be contrary to the requirements of paragraph AA.2.(3)(a)(i) of Schedule 2, Part 1, Class AA of the GPDO.

Other Matters

11. Reference has been made to similar developments granted permission in the surrounding area. However, limited information on the relationship of these properties to neighbouring dwellings has been provided and these appear to relate primarily to applications for planning permission rather than prior approval such that they are not directly comparable to the scheme. In any event, each scheme is decided on its own site-specific merits and these

examples do not alter the requirements of the legislation on which I must base my decision.

12. I note the agreement of the main parties that the proposal is acceptable from a design perspective, representing a lack of harm to the character and appearance of the area. On the basis of my observations I have no reason to disagree. I further note that national and local policies provide support for the effective use of land, particularly to meet identified housing needs and provide appropriate housing mixes, to which the proposal would contribute albeit in a limited manner given its single dwelling nature. However, the GPDO offers no discretion where conflict is found with its requirements. As such, these matters do not change my findings on the main issue in this appeal.

Conclusion

13. For the above reasons, I conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR