



Appeal Decision

Site visit made on 21 August 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/L1765/D/23/3315463

The Paddock, Legion Lane, Kings Worthy, Hampshire SO23 7RA

- 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 Schedule 2, Part 1, Class AA, Paragraph AA(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Lynch against the decision of Winchester City Council.
- The application Ref 22/02697/PNASDH, dated 24 November 2022, was refused by notice dated 16 January 2023.
- The development proposed is the extension of the existing house to provide 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(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an additional storey at The Paddock, Legion Lane, Kings Worthy, Hampshire SO23 7RA in accordance with the application 22/02697/PNASDH made on 24 November 2022, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class AA, Paragraph AA.2(3)(a)) and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they are relevant to the additional storey, and all elements regarding the porch are disregarded:
 - Site Location Plan;
 - Block/Site Plan; and
 - Lynch 337.3 M dated 26 August 2022

Procedural Matters

2. The host property is a detached dwellinghouse, with a secondary floor of accommodation provided in the roof space. The proposal would replace the secondary floor of accommodation with an additional storey.
3. Schedule 2, Part 1, Class AA(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)¹, permits development consisting of the enlargement of a dwellinghouse by construction of one additional storey, where the existing dwellinghouse consists of one storey², together with any reasonably necessary engineering operations.

¹ Going forward I will refer to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as 'the GPDO', and Schedule 2, Part 1, Class AA of the GPDO as 'Class AA'.

² As defined by Class AA(b), Paragraph AA4.(2)(b) of the GPDO

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.

Background and Main Issues

5. The main parties agree the proposal would comply with the limitations set out in Class AA, Paragraph AA.1 and all the conditions set out in Class AA, Paragraph AA.2(2) except that of AA.2(2)(b). There is nothing before me to conclude otherwise.
6. Paragraph AA.2(2)(b) requires that the development must not include a window in any wall or roof slope forming a side elevation of the dwellinghouse. Although the proposed additional storey would not have any such windows, the plans submitted show a new porch which would include windows in both side elevations.
7. Paragraph AA.2(3) requires prior approval to be sought for, amongst other things, 'the external appearance of the dwellinghouse, including the design and architectural features of the principal elevation of the dwellinghouse, and any side elevation of the dwellinghouse that fronts a highway' (Paragraph AA.2(3)(ii)).
8. The main issues are therefore whether the proposed development would constitute permitted development in respect to Class AA(b) with specific regard to Paragraph AA.2(2)(b); and if the proposal is found to constitute permitted development, the effect of the proposal on the external appearance of the dwellinghouse.

Reasons

9. The host property has a protruding front porch with cat slide roof. It is shown on the plans as being replaced by a pitched roof porch which would have windows in both its side elevations. The appellant states this is indicative of what they seek to achieve by exploiting Schedule 2, Part 1, Class D of the GPDO, should this appeal be approved. The proposed new porch would not intersect with the proposed additional storey, nor would it constitute engineering operations that are necessary for the additional storey to be built. Therefore, I do not consider the porch to form part of the proposed Class AA development before me.
10. As such the proposed additional storey would comply with Paragraph AA.2(2)(b) as it would not include a window in any wall or roof slope forming a side elevation of the dwellinghouse. It therefore constitutes permitted development in respect to Class AA(b). As such, it is necessary to consider the prior approval requirements set out in Paragraph AA.2(3), specifically Paragraph AA.2(3)(ii).
11. It is acknowledged that the appellant considers the Council's assessment of the external appearance as too broad. However, the wording of paragraph AA.2(3)(ii) does not limit the consideration of external appearance of the dwellinghouse to the intrinsic design, although it does require this to be part of the assessment. In this instance due to the visibility of the host property, and the change in height the proposal would necessitate, I consider it appropriate to also consider the street context as an aspect of the dwellinghouse's external appearance.

12. The host property is the first of a series of chalet bungalows located along Legion Lane. All of which are similar in height and form but differ in finish and design. Legion Lane forms part of a much wider residential area where there is a mix of forms, heights, and styles of buildings, set reasonably close together.
13. Nevertheless due to the topography of the area and curve of the lane the host property is not well related to the other bungalows. They generally face onto the lane and are set back behind front gardens and off-road parking which creates a regular cadence to much of Legion Lane. The host property, however, is at odds to this pattern as it is orientated so that the side elevation faces the street, and its frontage faces Holly House. Holly House is a traditional 2-storey dwelling, on the opposite side of the lane to the host property, and both properties form a grouping slightly apart from the rest. Emphasised by their location at the start of Legion Lane in a hollow before the lane curves up and away.
14. The proposal would increase the height of the host property when compared to the other chalet bungalows along Legion Lane. Yet, it does not particularly visually relate to those properties due to its location and orientation. Nor does it follow the lane's regular pattern of development. It would, however, create a 2-storey dwelling in a traditional form and style similar to Holly House, to which it better relates, and is a form and style of property not out of character in the wider area. In this context the proposed additional storey and the resultant appearance of the appeal dwellinghouse would not be out of place given the diversity of dwelling types in the wider area, and its position within the street context.
15. In conclusion, therefore, the proposed additional storey would be considered as permitted development under Class AA(b), and would comply with the conditions, limitations, and restrictions set out in Class AA, Paragraphs AA.1 and AA.2. As such, prior approval should be granted.

Conclusion and Conditions

16. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be allowed, and prior approval granted.
17. The GDPO says prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. For the avoidance of doubt and for clarity I have imposed a plans condition, with clear stipulation this refers to the additional storey only. Prior approval is also subject to several conditions prescribed in the Class AA, Paragraph AA.2. It is not necessary to repeat these within the formal decision, but to assist the parties, these are summarised below.
18. Paragraph AA.2(2)(a) requires materials used in the exterior work to be of a similar appearance to those used in the existing dwellinghouse; (b) precludes windows in any wall or roof slope forming a side elevation; (c) requires the roof pitch of the principal part of the dwellinghouse to be the same as that of the existing house; and (d) requires that following the development, the dwellinghouse must be used for no other purpose than that falling within Class C3 of the Use Classes Order.
19. Paragraph AA.2(3)(b) specifies that before beginning the development, the developer must provide a report for the management of the construction,

including hours of operation and measures for the mitigation of any impacts of noise, dust, vibration, and traffic on adjoining occupiers. The development must be completed within 3 years of prior approval being granted to accord with Paragraph AA.2(3)(c), and notification of the completion of development is required under Paragraphs AA.2(3)(d) and (e).

RJ Redford

INSPECTOR