



Appeal Decision

Site visit made on 4 October 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/Q1445/W/23/3317108

10 Garden Close, Portslade, Brighton & Hove BN41 1XL

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Dr Alexander Khot against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/03376, dated 24 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is prior approval for the erection of an additional storey to form a first floor extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice refers to the provisions of Schedule 2, Part 3, Class O of the GPDO, whereas the provisions of Schedule 2, Part 1, Class AA of the GPDO are relevant in this appeal. The parties are agreed on this and I have assessed the appeal on that basis.
3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO, permission is granted for the enlargement of a dwellinghouse consisting of the construction of one additional storey, immediately above the topmost storey of the dwellinghouse, where the existing dwellinghouse consists of one storey, together with any engineering operations reasonably necessary for the purpose of that construction. This is subject to a number of limitations and conditions.
4. The Council refused to grant prior approval in relation to paragraph AA.2, making reference to the external appearance of the dwellinghouse and the impact on the amenity of adjoining premises, in relation to loss of outlook.

Main Issue

5. The main issue is whether the proposed second floor extension is permitted under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO, having particular regard to the external appearance of the dwelling and the amenity (living conditions) of adjoining occupiers.

Reasons

Amenity (living conditions)

6. Outlook from the rear of Nos 21-29 Links Road is predominantly over their relatively modest private rear gardens and towards the rear elevation of 10 Garden Close. The existing single-storey appeal building is highly visible from within these properties and their gardens, and already compromises outlook to a degree. This is, in part, due to a change in site levels.
7. I accept that a separation distance of approximately 17 metres would exist between the proposed two-storey appeal property and the rear elevations of properties along Links Road. I also acknowledge that the appellant has made amendments to the proposed development previously to seek to overcome the Council's concerns. Nevertheless, the increase in the height across the full width of the existing property, at close proximity to the rear shared boundary, is such that the proposal would have a harmful impact on the living conditions of the occupiers of neighbouring properties along Links Road.
8. The combination of the increased height of the appeal property, together with the relatively limited separation distance, would reduce outlook and create an unacceptably harmful sense of enclosure to the occupiers of those dwellings. The development would feel particularly overbearing within the private rear gardens of those properties, by reason of the overall height and scale of the proposed development.
9. In respect of 9 Garden Close, this is positioned further away from properties within Links Road and is of a different scale and design to the proposal before me. Consequently, it is not directly comparable to the case before me.
10. Whilst I accept the appellant's comments in respect of more restricted living conditions in urban areas, the appeal site and its immediately surrounding area would be better described as suburban in layout and character.
11. For the above reasons, I find that the proposed development would harm the amenity (living conditions) of the occupiers of neighbouring properties, contrary to the requirements of Class AA of the GPDO.

External Appearance

12. The appeal property comprises a bungalow positioned at the junction of The Gardens with Garden Close. Its principal and side (north) elevations are highly visible from the public realm. The site is surrounded by properties of a varied scale, appearance and period, some single-storey and some two-storey.
13. The proposed development would result in the creation of a two-storey dwelling here. This would clearly change the appearance of the property. However, the proposed extension would reflect the architectural style of the existing property, including in terms of its materials, roof profile and the placement of windows. Moreover, the proposed development would assimilate to an acceptable standard with its varied surroundings.
14. For the above reasons, the proposed development would be of an acceptable external appearance, in accordance with the requirements of Class AA of the GPDO.

Other Matters

15. That letters of support have been received, and that no heritage designations exist that effect the site, do not alter my conclusion on the main issues.
16. I note the appellant's comments in respect of representations received and that these do not publicly show names and addresses. This is common practice for data protection reasons. I have no reason to doubt that the Council has considered the case appropriately, and the lack of personal details has not affected my consideration of this appeal.
17. I acknowledge the government's objective of making effective use of land in meeting the need for homes and its support of upward extensions, as reflected in the National Planning Policy Framework. However, the proposal before me does not seek to provide additional homes. Moreover, this part of the GPDO is subject to limitations and conditions. Ultimately, I have found the proposal to be unacceptable and this harm would not be outweighed by any other considerations.

Conclusion

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

A Price

INSPECTOR