



Appeal Decision

Site visit made on 31 October 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2023

Appeal Ref: APP/C1950/D/23/3322362

Woodhurst, Cattlegate Road, Northaw, Potters Bar, Hertfordshire EN2 8AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 R A & S D Young against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2023/0066/PN27, dated 10 January 2023, was refused by notice dated 21 March 2023.
 - The development proposed is described on the application form as 'Prior approval for the construction of an additional storey to facilitate the enlargement of the dwellinghouse to a maximum of 12 metres in height'.
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Decision

1. The appeal is allowed and planning permission is granted for prior approval for the construction of an additional storey to facilitate the enlargement of the dwellinghouse to a maximum of 12 metres in height at Woodhurst, Cattlegate Road, Northaw, Potters Bar, Hertfordshire EN2 8AU in accordance with the terms of the application, Ref 6/2023/0066/PN27, dated 10 January 2023, including drawing no's 22020-LP, 22020-03, 22020-04 and 22020-07, and subject to the standard conditions set out in sub-paragraphs AA.2.(2) and AA.2.(3) of the GPDO.

Preliminary Matters

2. The Council's delegated officer report refers to saved policies of the Welwyn Hatfield District Plan 2005 and policies within the Welwyn Hatfield Draft Local Plan Submission 2016. The Welwyn Hatfield Borough Council Local Plan 2016 – 2036 was adopted on 12 October 2023. The Council has provided the revised policies and the appellant has been given the opportunity to make a submission. In light of this re-consultation, I am satisfied that no party has been prejudiced by my consideration of the appeal proposal against the policies of The Welwyn Hatfield Borough Council Local Plan 2016 – 2036.
3. The proposal is to be assessed as a prior approval application as set out within the parameters of the GPDO. As a prior approval there are two stages to the assessment – the first being eligibility. The Council conclude that the proposal is eligible to be considered under the prior approval process and have not raised any conflict with the conditions set out in the GPDO. I have no evidence before me to conclude differently, so the focus of this appeal will be the second stage of assessment – the prior approval merits assessment.

4. In making my assessment of the merits of the proposal I have taken into account the judgements made in the High Court¹ and the Court of Appeal² regarding the interpretation of Class AA of Part 1 of the GPDO. In particular these judgements indicate that control of the external appearance are not limited to the impact on the subject property itself, but also includes impacts on neighbouring premises and the locality. Furthermore, consideration of impacts on amenity should not be limited to properties that immediately abut the host property.

Main Issues

5. The main issues in this appeal are whether prior approval should be granted having regard to paragraphs AA.2 (3)(a) (i) and (ii) of the GPDO with particular regard to the external appearance of the building and the impact of the proposal on the amenity of the properties at Woodlands, Coopers Lane Road, Ridge House Farm, Cattlegate Road and Woodhurst Cottage, Cattlegate Road.

Reasons

External appearance

6. The appeal property is a two storey detached dwelling, located at the junction of Cattlegate Road and Coopers Lane Road, in a predominantly rural location. It lies within a large, landscaped plot of land, and is set back from the adjoining highways by a significant distance. Properties in the locality, including Woodlands, Ridge House Farm, and Woodhurst Cottage, are sparsely distributed. They are two storeys in height, and individually designed. This results in a varied pattern of buildings in terms of their location and scale.
7. The introduction of one additional storey would increase the scale and mass of the host property. That said, the host property is set some distance from its nearest neighbours and would not be read as part of a recognised street scene. Moreover, given the property's distance from the adjacent highways, and presence of substantial landscape features in the intervening space, including boundary hedgerows and mature trees, any views of the proposed development would be limited and localised. Consequently, the resultant development would not appear as a prominent feature within the street scene. Insofar as the design and architectural features of the proposed development are concerned, I note that the elevations, would be similar to the existing, albeit at a higher level. In light of the above,
8. Accordingly, on this main issue, I find that the proposal would not cause harm to the external appearance of the host property or its immediate surroundings. As a result, it would accord with paragraph AA.2 (3)(a) (ii) of the GPDO and, insofar as it is relevant to the subject matter of the prior approval, would not conflict with policies SP1 and SP9 of the Welwyn Hatfield Borough Council Local Plan 2016 – 2036, or the objectives of paragraphs 120 e) and 130 of the National Planning Policy Framework 2023 (the Framework). These policies, amongst other things, support upward extensions where the development would be consistent with the overall street scene, and seek high quality, beautiful and sustainable buildings that add to the overall quality of the area.

¹ GPDO Class AA and "External Appearance": CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

² CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194

Impact on the amenity of neighbouring premises

9. The host property is set some distance from its nearest neighbours at Woodlands, which sits to the north of the appeal site on Coopers Lane Road. To the south, at an appreciably greater distance, is Ridge House Farm, beyond which lies Woodhurst Cottage.
10. Given the juxtaposition of the respective properties the Council conclude that the proposal would not adversely the amenity of these properties by reason of loss of privacy or light. From what I have read, and saw on my site visit, I accept their conclusions with regards to these matters.
11. Notwithstanding the above, the Council assert that the proposal would result in an unneighbourly form of development that would appear overbearing and unduly dominant. I do not accept this assertion given the significant distance between the proposal and the 'neighbouring' properties, the comparatively narrow flank elevation that would be seen from those properties, and the presence of the existing landscape features as identified above.
12. Accordingly, on this main issue, I conclude that the proposal would not adversely affect the amenity of Woodlands, Coopers Lane Road, Ridge House Farm, Cattlegate Road and Woodhurst Cottage, Cattlegate Road. Consequently, it would accord with paragraph AA.2 (3)(a) (i) of the GPDO, and insofar as it is relevant to the subject matter of the prior approval, would not conflict with Policy SADM 11 of the Welwyn Hatfield Borough Council Local Plan 2016 – 2036, or the objectives of paragraph 130 f) of the Framework. These policies seek, amongst other things, to create places with a high standard of amenity for existing and future users.

Other Matter

13. I note that representations were made by Herts and Middlesex Wildlife Trust raising other issues. However, the matters they raise are not ones that need assessment as part of a prior approval application, and consequently it is not necessary to consider them further.

Conditions

14. The Council have suggested that in the event of this appeal being allowed a condition should be imposed requiring the development to be carried out in accordance with the approved plans. I agree that in the interests of certainty a condition, as requested, should be imposed.
15. The conditions set out in paragraphs AA.2(2)(a) and (c) of the GPDO requires the materials to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse and the roof pitch to be the same as the roof pitch of the existing house. The omission of windows in any wall or roof slope forming a side elevation is a requirement of paragraph AA.2(2)(b) of the GPDO.
16. The developer is required to provide the local authority with a report for the management of the construction of the proposed development in order to comply with paragraph AA.2(3)(b) of the GPDO.
17. Paragraph AA.2(3)(c) requires the completion of the development within three years, with a further requirement to notify the local authority of the completion

of the development in order to comply with paragraph AA.2(3)(d) and (e) of the GPDO.

Conclusion

18. 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 set out above.

J Gunn

INSPECTOR