



Appeal Decision

Site visit made on 5 December 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/A2280/W/23/3319155

260 High Street, Chatham, ME4 4AN

- 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 20, Class AA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Kam Dovedi of Dovedi Estates against the decision of Medway Council.
 - The application Ref MC/22/0154, dated 21 January 2022, was refused by notice dated 19 January 2023.
 - The development proposed is described as the addition of 2no. additional storeys of accommodation as set out under the GPDO guidance, and as shown in the submitted plans.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The principle of the development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. However, in determining applications for prior approval, paragraph B.(15) of Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires the Local Planning Authority to take into account any representations made to them as a result of any consultation or publicity, and to have regard to the National Planning Policy Framework (the Framework) insofar as it is relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.
3. Both main parties have had the opportunity to comment on the relevance of the conditions for prior approval as set out in paragraph AA.2 of the GPDO, and I have considered these responses in my decision. Both parties are content that the development meets all the matters other than that relating to the impact on external appearance. I have no evidence to disagree with this assessment and therefore have focused on just that matter in dispute. As such, in accepting additional comments from the main parties, I do not find any third parties would be prejudiced against as the matters are relevant to the external appearance only.
4. A revised Framework was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). Any references to the Framework hereafter in this decision are to the latest version. The revised Framework is a material consideration

which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

5. The main issues are whether the building is a detached building such that it would benefit from permitted development rights afforded under Schedule 2, Part 20, Class AA of the GPDO and if so, whether or not prior approval should be granted having regard to the external appearance of the dwellinghouse, including the design and architectural features.

Reasons

Whether the development benefits from permitted development rights

6. Schedule 2, Part 20, Class AA of the GPDO provides for new dwellinghouses on detached buildings in commercial or mixed use. For the purposes of Part 20, the GPDO interprets a detached property as a building that does not share a party wall with a neighbouring building. There is dispute between the parties in respect to whether the appeal site is detached for the purposes of the GPDO, and thus whether it would meet the requirements of Part 20, Class AA, Paragraph AA.
7. During my site observations there was no visible gap between the appeal site and the neighbouring properties at Nos 258 and 262 High Street with facing brickwork providing a continuous frontage to the streetscene. For all intents and purposes the appeal site has the appearance of a traditional high street terrace in Chatham Town Centre. However, the evidence before me indicates that 260 High Street was demolished and rebuilt between the adjoining properties at Nos 258 and 262. The appellant has submitted construction drawings¹ as part of the appeal which highlight an independent cavity wall with a gap between the appeal property and neighbouring buildings, indicating that the building does not share a party wall.
8. Based on the evidence, it is inconclusive as to the precise physical detached nature of the appeal site given that in part, the main frontage adjoins and is attached to, the properties either side. Therefore, in the interests of fairness, I have gone on to consider whether, if the building were to be considered detached, it would comply with the limitations set out in paragraph AA.1 and the conditions set out in paragraph AA.2, which include matters in respect of which the developer must apply to the Local Planning Authority for prior approval.

External appearance

9. In making my assessment of the merits of the proposal in respect to the external appearance of the building, I have taken into account the judgement made in the High Court² regarding the interpretation of external appearance.

¹ Drawing numbers: 1152/C/1001, 1152/C/1002 Rev A, 1152/C/1003, 1152/C/1004, 1152/C/1005, 1152 RC01, 1152 RC02, 1152 RC03

² CAB Housing Ltd, Beis Noeh Ltd and Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

The judgement confirmed that “external appearance” is not limited to its principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations. Moreover, it indicates that control of the external appearance of the dwelling is not limited to the impact on the subject property itself, but also includes impacts on neighbouring premises and the locality.

10. The appeal site is a four-storey brick-built building with accommodation in the roof and is in Chatham Town Centre, with commercial premises located at the ground level and residential accommodation in the upper floors. The surrounding area has a variety of rooflines ranging from smaller two-storey units to larger five-storey former department stores. However, the section of the High Street within which the appeal site is located has a more regular rhythm and uniformity to its height.
11. The proposed development would result in an additional two storeys to be constructed from similar materials to the existing building. Despite the appropriate materials, the additional storeys would create a design that would conflict with the more regular proportions of the appeal site and would significantly contrast with the height of the roof scape of the existing neighbouring buildings. This would create a visually dominant extension causing harm to the external appearance of the existing building and its immediate surrounding area.
12. The introduction of a six-storey development within an area predominantly of three and four-storey buildings, would be an extremely prominent addition into the locality, which given its town centre location would be experienced by a greater number of people and would appear prominent from an increased number of public vantage points. In particular, the additional stories would appear especially conspicuous as one approaches the town centre from the south given the localised elevated topography levels.
13. I therefore conclude that the proposed development would be harmful to the character and appearance of the area and the external appearance of the appeal building. The development, in this regard, would conflict with the requirements of the Framework insofar as it seeks good design and development that is visually attractive and sympathetic to local character. The proposal would fail to meet this expectation. For these reasons, even if I were to conclude that the existing building is detached, the proposed development would fail to comply with Condition AA.2. (1) (e) of Part 20, Class AA of the GPDO.

Conclusion

14. For these reasons, I conclude that prior approval should not be granted having regard to the effect of the development on the external appearance of the dwelling, and therefore the appeal should be dismissed.

Robert Naylor

INSPECTOR