



Appeal Decision

Site visit made on 20 December 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2024

Appeal Ref: APP/V1260/D/22/3300358

5 Hive Gardens, 71 Chaddesley Glen, Poole BH13 7PD

- 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 Executor of the Estate of M Spalding deceased against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/00197/PA, dated 2 February 2022, was refused by notice dated 19 April 2022.
 - The development proposed is prior approval application to erect an additional storey to the existing dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form I have been provided is blank. As such, and for the purposes of the banner to my Decision, I have relied on information provided on the appellant's appeal form and the Council's decision.
3. The right of appeal rests solely with the original applicant. Sadly, in this case, the applicant passed away before the application was determined by the Council. The right of appeal passes to the Executors of the Estate once probate was granted. This allows them to administer the Estate which includes the right to submit a planning appeal in relation to an application submitted in the name of the deceased. I have proceeded with the appeal on this basis and my Decision reflects this.
4. The Council has referred to a development plan policy in its decision. Since it is Article 3(1) of the GPDO which permits the classes of development set out in Schedule 2, an application for prior approval, or for a determination as to whether prior approval is required, is not an application for planning permission. It is an application made to comply with a 'pre-commencement' condition attached to that permission under the relevant Class.
5. As such, the GPDO does not require that regard be had to the development plan. I have nevertheless had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of prior approval.
6. Similarly, Paragraph(12)(b) of Part 1 of Class AA of the GPDO requires the decision-maker to have regard to the National Planning Policy Framework, in so

far as relevant to the subject matter of the prior approval, as if the application were a planning application.

7. Since the Council determined the application, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. I have consulted the main parties on this and had regard to any representations received.

Background and main issues

8. Under Article 3(1) and Class AA of Part 1 of Schedule 2 of the GPDO, planning permission is granted for the enlargement of a dwellinghouse by construction of additional storey(s). This is subject to certain limitations and conditions.
9. The Council has concluded that the submitted scheme complies with the eligibility requirement of Paragraph AA.1 of Part 1 of Schedule 2 of Class AA of the GPDO. I have also considered this and have no reason to disagree.
10. The relevant conditions include paragraph AA.2.(3)(a). This requires that before beginning the development, the developer must apply to the local planning authority for prior approval as to, amongst other matters: (i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light; (ii) the external appearance of the dwellinghouse, including the design and architectural features of—(aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.
11. Having regard to the CAB Housing Ltd¹ judgment, I acknowledge that the control of the external appearance of the dwellinghouse is not limited to the host property itself, but also includes impact on the locality.
12. Accordingly, the main issues are the effect of the proposal on the external appearance of the dwellinghouse and locality and the amenity of any adjoining premises.

Reasons

External appearance

13. The appeal site comprises a single storey dwellinghouse within a terrace of similar properties ('single storey terrace'). This single storey terrace forms part of the Hive Gardens development. The Hive Gardens development includes a parallel two-storey block of dwellinghouses ('two storey block') to the east of the single storey terrace. As a consequence of their careful siting which makes use of the topography of this site, all these properties benefit from an aspect and outlook towards Poole Harbour. The single storey terrace, because of its siting on lower ground relative to the two storey block and its single storey scale, positively contributes to the arrangement and appearance of Hive Gardens.
14. The single storey terrace also runs parallel to Shore Road. The character of the wider street scene along Shore Road is evolving with various examples of contemporary extensions and new builds. This includes taller buildings.

¹ Cab Housing Ltd v SSLUHC [2022] EWHC 208 (Admin)

15. However, the single storey terrace, because of its mono-pitch roof design, incorporates a simple and uniform roof line. When viewed from the adjacent footpath, the roof line extends just above an existing hedge line. Indeed, the taller buildings which flank the single storey terrace, emphasise its low-lying design.
16. The arrangement of this low-lying development contributes to a distinct and open street scene along this part of Shore Road, which complements the open character associated with the shoreline on the opposite side of the road. The appeal property, because of its form and architecture, also positively contributes to the appearance of the single storey terrace and the character of the locality.
17. The proposed additional storey, mid row along this single storey row of dwellinghouses, would clearly breach the simple, uniform roof line. In particular, an additional floor to the appeal property, would in effect create a two-storey dwelling. Due to its position amongst the row of single storey dwellings, the extended appeal property would appear notably conspicuous within Hive Gardens and the street scene.
18. Because of the distinctive design and arrangement of the single storey terrace, the proposal would appear unduly dominant and is unlikely to be absorbed within the street scene by taller buildings in the locality.
19. In particular, the combination of the stark appearance of the proposed additional storey and the prominent position of this facing Shore Road, would exacerbate its adverse impact on the locality.
20. The appellant asserts that it is inevitable that when the first of the existing single storey dwellinghouses is extended upwards this would be prominent. Even so, one of the matters for prior approval is external appearance and for the above reasons, the proposal would harm this and the locality.

Impact on the amenity of any adjoining premises

21. The outlook from a dwellinghouse forms part of its amenity and is capable of being a material consideration.
22. The main living and amenity areas of the two storey block face towards the single storey terrace. I had the opportunity to view the appeal site from dwellinghouses along both the ground and upper floors of the two storey block.
23. Because of the careful siting and low-lying design of the single storey terrace, its built form does not unduly impact on the outlook from the two storey block.
24. However, the proposed additional storey, because of its proximity, height and massing, would significantly interrupt and unacceptably dominate the outlook associated with the main living and amenity areas for the dwellinghouses in the two-storey block. In particular, from those which directly face the appeal property.
25. A window in the south west elevation of the proposed additional storey, which is intended to serve a bedroom, would face towards the two storey block and its associated amenity areas.

26. The appellant argues that the use of the proposed bedroom shall be during nocturnal hours, so the level of harm is negligible and adds that the occupier of the bedroom will install curtains or blinds to maintain their privacy. However, there is no certainty that the proposed bedroom would be occupied in this manner.
27. As such, the proposed window arrangement would introduce a degree of actual and perceived overlooking, which would unacceptably compromise the privacy of the occupiers of the dwellinghouses within the two storey block. Therefore, the proposal would harm the amenity of adjoining premises with regard to outlook and privacy.

Conclusion

28. For the above reasons, prior approval for matters identified under paragraph AA.2.(3)(a).(i) and (ii) of the GPDO, is not given and therefore the appeal should be dismissed. In reaching my conclusion, I have taken into account the development plan so far as it is material.

M Aqbal

INSPECTOR