



Appeal Decision

Site visit made on 8 February 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th February 2024

Appeal Ref: APP/M2372/D/23/3327487

11 Greenhead Avenue, Blackburn with Darwen, Blackburn BB1 5PR

- 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 Class AA of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Arif Patel against the decision of Blackburn with Darwen Borough Council.
The application 10/23/0512, dated 14 June 2023, was refused by notice dated 10 July 2023.
 - The development proposed is proposed construction of additional storey. Max Height 9.87m.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) allows for up to two additional storeys to a dwellinghouse, subject to limitations and conditions set out under Class AA.1 and Class AA.2. The Council's concern relates only to the conditions of paragraph AA.2(3)(a)(i) and (ii). These require consideration of the impact of the development on the amenity of any adjoining premises including overlooking, privacy and the loss of light and the external appearance of the dwellinghouse.
3. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis. Since the determination of this application, the Government published a revised Framework on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
4. The appellant has submitted amended plans with the appeal, which have incorporated partially obscured windows on the rear elevation of the proposal and the inset of the Juliet balcony from the rear wall. I am satisfied these are minor alterations. As such, and having regard to the relevant principles and guidance in this respect, I am satisfied there is no risk of prejudice if I take the amended plans into account. I have therefore determined the appeal on this basis.

5. The description of development has been taken from the Council's decision notice as this is more accurate than the application form.

Main Issues

6. The main issues are whether or not prior approval should be granted, having regard to: (i) character and appearance; and (ii) to the living conditions of neighbouring occupiers with particular regard to outlook, privacy and light.

Reasons

Character and appearance

7. The site is a dwelling on Greenhead Avenue, connected to an adjoining pair of semi-detached properties by a rear link extension. The area is residential, defined by properties that, although differing in precise design and style, retain a largely consistent roof height and two storey nature. As a two storey dwelling, the appeal property contributes positively to the surrounds.
8. The proposal seeks to erect an additional storey at the appeal property, on the footprint on the main dwelling. It would retain the hipped roof style currently present at the property, and would be constructed from materials that would assimilate with both the appeal property and the immediate surrounds.
9. Nevertheless, the proposal would result in a significant addition of built form at the property, increasing its bulk and mass. It would result in the appeal property being significantly higher than other dwellings on the street, failing to integrate within the surrounds or to visually relate to the predominant two-storey form of neighbouring development. It would be of a greater scale than is common on the street, reading as a visually disruptive feature that would not assimilate comfortably into the surrounding built environment. Overall, the proposal would be read as incongruous and unduly dominant.
10. Furthermore, the front fenestration of the proposed third storey would fail to reflect the lower levels of the property. While it would be of a similar placement it would not replicate the bay nature of the windows below, a clearly notable and defining design feature of the property. I note other properties in the surrounds have bay windows on the ground floor, with different windows above. However, the appeal property features bay windows on both the ground and first floor such that the proposed windows on the upper level would result in the front facade appearing disjointed and unduly bottom heavy.
11. Overall, 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. As such it would be contrary to the requirements of paragraph AA.2.(3)(a)(ii) of Schedule 2, Part 1, Class AA of the GPDO.

Living conditions

12. The rear façade of the proposal would feature a Juliet balcony and window. While amended plans show the window would be of obscured glazing, even acknowledging the setback of the Juliet balcony and its associated railings, the glazed doors are not shown to be obscured, and would allow for clear views of immediately surrounding rear gardens along Greenhead Avenue, particularly those of Nos. 9, 15 and 17, including the outbuilding present in the rear garden immediately to the north-east of the site. Overall, this would result in

an undue level or actual and perceived overlooking for the residents of these properties, negatively impacting their enjoyment of these spaces.

13. Furthermore, the introduction of significant additional solid built form at the upper level of the appeal property would appear overbearing when viewed from the rear gardens of these adjoining properties. This would particularly be the case given the modest and shallow nature of these gardens and the surrounding context of otherwise largely two storey properties. Overall, the additional bulk of the proposal would read as dominant from these spaces, resulting in a sense of enclosure for occupiers of the associated dwellings.
14. In addition, the scale and positioning of the proposal relative to the modest rear garden at No. 15 would also result in undue overshadowing of this space. While its separation distance from other rear gardens in the area would ensure no impact in this regard, the additional upper level of built form would be likely to cast shadows that would reduce the amount of time during the day when light would reach the rear garden at No. 15. This would result in unacceptable overshadowing of this space, reducing occupiers' enjoyment.
15. While I note that at present No. 15 Greenhead Avenue is occupied by the same family as the appeal property, and the rear gardens are currently a communal space shared between the two, there is no guarantee that this would remain the case indefinitely. As such, this does not alter my findings above.
16. Overall, the proposal would result in significant adverse impacts on the living conditions of neighbouring residents with regard to outlook, privacy and light and as such would be contrary to the requirements of paragraph AA.2.(3)(a)(i) of Schedule 2, Part 1, Class AA of the GPDO.

Other Matters

17. The appellant cites another appeal¹ in a different Council area which allowed for the erection of an additional storey, in a scheme that is stated to be similar to that before me. However, I have limited information on the specifics of that scheme or its precise comparability to the current proposal. In any event each scheme is decided on its own site-specific merits, and reference to development elsewhere carries little weight.
18. While reference has been made to the potential to erect a rear dormer at the site as permitted development similar to those at other properties nearby, there is nothing substantive before me to suggest that there is a greater than theoretical possibility of this occurring, such that I afford little weight to this fallback scenario. I must assess the scheme as it appears before me which, for the reasons outlined, would result in harm to the living conditions of occupiers of surrounding properties and the character of the area.

Conclusion

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

C Rafferty

INSPECTOR

¹ APP/J2373/D/21/3272191