
Appeal Decision

Site visit made on 5 February 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2024

Appeal Ref: APP/H1515/D/23/3329324

Shepherds Croft, Wigley Bush Lane, South Weald, Brentwood CM14 5QN

- 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) (The GPDO).
 - The appeal is made by Mr Charlie Johnson against the decision of Brentwood Borough Council.
 - The application Ref 23/00473/PHNF, dated 17 April 2023, was refused by notice dated 19 June 2023.
 - The development proposed is described as application for prior approval for enlargement of existing dwelling by the construction of an additional storey in accordance with Class AA of Part 1 of Schedule 2 of the GPDO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the application form differs to that contained within the decision notice. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description as included in the application form for the purposes of the heading above.
3. I have taken the site address above from the appeal form. Whilst different to the Council's decision notice it accurately reflects the site location.
4. Since the lodging of the appeal, a revised National Planning Policy Framework (Framework) has been published. This has not raised any new matters which are determinative in this appeal.
5. Development plan policies and 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.

Main Issue

6. The main issue is whether the proposal would be permitted under the requirements of Schedule 2, Part 1, Class AA of the (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

7. Schedule 2, Part 1, Class AA of the GPDO enables, as permitted development, the enlargement of a dwellinghouse by the construction of additional storeys.

This is subject to a number of criteria listed in paragraph AA.1, and various conditions listed in paragraphs AA.2 (2) and (3).

8. Condition AA.2(3)(a), which requires the developer, the appellant in this instance, before beginning the development, to apply to the local planning authority for prior approval for matters which include (ii) the external appearance of the dwellinghouse, including the design and architectural features of: (aa) the principle elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.
9. The appeal property is a detached chalet-style bungalow. It is located within a substantially sized plot set back from the road by a large front garden and tree planting. As a result of the topography of the road the site appears slightly elevated in the street scene. There are also a number of other buildings on site including a large annexe to the side. Notwithstanding the annexe, the immediate area is generally made up of buildings that are single-storey with tall pitched roofs. Beyond these buildings, further along the road, two-storey dwellings are also evident alongside other single-storey buildings.
10. The South Weald Conservation Area (CA) boundary runs down this part of Wigley Bush Lane, with the Grade II Listed Browne's Charity Almshouses and Chapel (Grade II Almshouses and Chapel) located opposite the appeal site. The properties inside the CA have a notably traditional appearance with many set over a low level particularly those closest to the proposed development. The annexe building has a somewhat prominent appearance as a result of its height, but this is somewhat tapered by the appeal buildings more low-level form reflecting other nearby buildings in the CA. In particular, the low-level form respects the scale of the Grade II Almshouses and Chapel allowing them to be appreciated. For this reason, the traditional and low-level appearance of the appeal property contributes positively to the area.
11. The proposed additional storey would significantly add to the height and bulk of the property and would introduce a full two-storey building into a part of the street which, notwithstanding the annexe, is characterised by low-level development with high-pitched roofs. The resulting scale and massing of the building would be at odds with the modest scale of the surrounding properties close by.
12. In assessing the external appearance of the building, consideration must also be given to its context. In this case, the context of the site also includes the adjacent CA. The site lies outside but directly opposite the CA, which derives its significance from the traditional architecture, including that of the Grade II Almshouses and Chapel. The fine architecture, low-level appearance and ornate detailing of this part of the CA and this listed building contribute to their significance and stand out in the surroundings, such that this significance depends to a degree on the setting.
13. At the time of my visit, the trees fronting the appeal site were not in leaf. I observed how despite the appeal property being set back, it was experienced alongside the above-mentioned CA and listed building. Despite the appeal property sitting at a higher level, its traditional appearance and low-level built form were consistent with development found on the opposite side of the road, which allows the significance of the CA and the listed building to be appreciated.

14. The proposal would, when seen alongside the annexe, render the appeal property more conspicuous in the setting of the CA and the listed building. It would visually compete with, and detract from, these heritage assets by appearing more intrusive and prominent than the current situation, failing to preserve their setting.
15. For the above reasons, the external appearance of the dwellinghouse would be unacceptable. Moreover, the scheme would conflict with the general advice contained in the Framework with specific regard to sections 12 and 16, which seek, amongst other things, for development to be sympathetic to local character and conserve and enhance heritage assets.
16. In reaching this view, I have had regard to the presence of houses in the wider area. Although the proposed development might have similar proportions to these, they are not within the immediate area and are experienced with a wider variety of built forms. In consequence, the presence of buildings elsewhere does not allow me to disregard the harms identified.
17. With regard to proposed materials, condition AA.2(2)(a) requires the materials used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The appellant has also drawn my attention to appeals on this matter¹. However, there are no substantive details before me to draw a comparison. In any event, the appeals relate to dormer windows and appear substantially different to the development proposed.
18. Nonetheless, the expression "similar appearance" requires a fact and degree of judgement taking into account the appearance of the existing materials of the dwellinghouse.
19. The Explanatory Memorandum² to Part 1, Class AA states as with existing permitted development rights to extend or alter houses, the external appearance of the materials used in the construction of the additional storeys must be of similar appearance to that of the existing house.
20. Whilst pre-dating the introduction of Schedule 2, Part 1, Class AA the Government's Permitted Development Rights for Householders: Technical Guidance 2019 provides a useful guide to interpretation of the GPDO in regard to similar materials for the purposes of Part 1, Class A. In the guidance for Part 1, Class A it states the condition is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials. For example: the external walls of an extension should be constructed of materials that provide a similar visual appearance - for example in terms of colour and style of brick used - to the materials used in existing house walls.
21. The appellant's evidence notes the design of the scheme does have a vertical emphasis that results in a greater amount of high-level masonry. The appellant's statement also states the finished development would be noticeably different in appearance from the existing chalet bungalow.

¹ Appeal refs: APP/L5810/X/16/3159522 and APP/L5810/X/16/3159516

² EXPLANATORY MEMORANDUM TO THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) (AMENDMENT) (NO. 2) ORDER 2020 2020 No. 755

22. Based on my observations on site and the submitted drawings before me, I find no reason to disagree. This is because the size and shape of building components, such as the external windows, will be different to those of the existing building and will introduce detailing not currently found on the property. Therefore, the materials proposed would not minimise visual impact or be sympathetic to the existing dwelling and, in my view, would not comply with Condition AA.2(2)(a) which requires the materials used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
23. Overall, the external appearance of the dwellinghouse would be unacceptable and the proposal would be contrary to the requirements of paragraphs AA.2.(2)(a) and AA.2.(3)(a)(ii) of Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO.

Other Matters

24. The personal circumstances of the appellant are acknowledged in relation to the restricted first-floor accommodation, whereby the proposal would add much-needed space. However, personal circumstances will seldom outweigh planning considerations and, in this case, do not overcome the conflict with the relevant paragraphs of Part 1, Class AA of the GPDO.
25. My attention has been drawn to an alternative scheme granted by the Council under ref: 23/00474/PHNF. From the limited details before me, the allowed scheme, while taller, would be more sympathetic to the character and appearance of the host dwelling. In any event, I have determined the scheme on its own merits and found it would not meet the requirements of the GPDO for the reasons set out.

Conclusion

26. For the reasons set out above, I conclude that prior approval should not be granted and, therefore, that the appeal should be dismissed.

A Hickey

INSPECTOR