



## Appeal Decision

Site visit made on 4 January 2024 by T Bennett BA(Hons) MSc MRTPI

**Decision by Martin Seaton BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 April 2024**

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**Appeal Ref: APP/J1915/D/23/3325134**

**96 Thornbera Road, Bishops Stortford, Hertfordshire CM23 3NN**

- 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).
  - The appeal is made by Mr Baris Ozaydin against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0924/ASDPN, dated 10 May 2023, was refused by notice dated 29 June 2023.
  - The development proposed is creation of additional storey to increase the height of the dwelling from 7.4 metres to 10 metres.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary Matters

3. 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 (the GPDO), planning permission is granted for the enlargement of a dwellinghouse by the construction of additional storeys, subject to limitations and conditions set out in paragraphs AA.1 and AA.2. An application for a determination for prior approval in respect of development permitted under Part 1, Class AA must also be made by the developer.
4. In setting out the conditions, paragraph AA.2 (3)(a) requires before development that the developer applies to the local planning authority for prior approval as to (i) the impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, and (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.
5. Paragraph AA.3 (3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.

## **Main Issue**

6. The main issues are whether the proposal would be permitted under the requirements of Schedule 2, Part 1, Class AA of the GPDO, and whether prior approval should be given, having particular regard to the resulting external appearance of the dwellinghouse.

## **Reasons for the Recommendation**

*Whether the proposal would be permitted under the GPDO*

7. Under paragraph class AA.3(2)(a) it states that an application must be accompanied by a written description of the proposed development including details of any works proposed.
8. The application form and description details that the proposed roof height will be 10 metres. However, the existing and proposed side elevations of the submitted drawing 010/01 indicate a roof height that is higher, by approximately 0.4 metres than that which is detailed on the front and rear elevations. Due to this conflicting information, it is not clear what the proposed dimensions would be. However, in this case, the discrepancies do not prevent an assessment to be made as to whether the proposed development complies with the criteria set out in Schedule 2, Part 1, Class AA.
9. Paragraph class AA.3(3) applies where an application to the local planning authority of prior approval is required by paragraph AA.2(3)(a). It confirms that a local planning authority may refuse an application for prior approval where, in its opinion, the proposal does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.
10. Paragraph class AA.1(g)(ii) states that in the case of a terraced house, the height of the highest part of its roof should not exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row within which it is sited. Although the application form states that the proposal would comply, the submitted drawing is a screenshot and not a scaled drawing. Furthermore, it only shows the adjoining property and not the rest of the properties within the terrace. It therefore fails to satisfactorily demonstrate that the proposal would meet these requirements.
11. Paragraph class AA.1(h) states that the internally measured floor to ceiling height of any additional storey should not exceed the lower of: (i) 3 metres, or, (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse. Although the application form again states that the proposal would comply, the submitted drawings do not include a section drawing or other measurements to demonstrate compliance with this limitation. The submission therefore fails to satisfactorily demonstrate that the proposal would meet these requirements.
12. For the above reasons, the prior approval application should be refused due to failure to satisfy paragraphs AA.1(g)(ii) and AA.1(h) of the GPDO.

*Whether prior approval should be given*

13. I have had regard to the appellant's submissions in respect of the matters relating to the prior approval. However, since the proposal would not be permitted development, it is not necessary to consider any further the effect on the impact on the amenity of any adjoining premises or the external appearance of the dwellinghouse.

**Other Matters**

14. The Council previously granted prior approval for an additional storey on the appeal property which has now expired. The appellant contends that the same plans were submitted for the previous prior approval. However, I do not have the full details of that application and in any case, it is imperative that the appeal is based on the documentation I have before me, which I have found to contain insufficient information.
15. I have also had regard to the submissions regarding the provision of additional space for the appellant and his family, and the construction management information detailed in the grounds of appeal. However, given that the proposal is not permitted development, these submissions do not have any bearing on this determination.

**Conclusion and Recommendation**

16. For the reasons given above, the appeal should be dismissed.

*T Bennett*

APPEAL PLANNING OFFICER

**Inspector's Decision**

17. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

*Martin Seaton*

INSPECTOR