The Planning Inspectorate

Appeal Decision

Site visit made on 25 June 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/T2350/D/24/3338551
23 Elswick Gardens, Mellor, Lancashire BB2 7JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Foran against the decision of Ribble Valley Borough Council.
- The application Ref is 3/2023/0777.
- The development proposed is described as 'an additional storey on a dwelling house. The maximum height of the dwelling after addition of the extra storey to be 8.96m.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above is taken from the Council's decision notice. The Council notified the appellant of the alteration to the description shown on the planning application form and there is no evidence before me that this was challenged.

3. Under the provisions of 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), where an existing dwellinghouse consists of one storey, planning permission is granted for its enlargement consisting of the construction of one additional storey immediately above the topmost storey, together with any engineering operations reasonably necessary for the purpose of that construction, subject to various conditions and limitations.

4. Paragraph AA.2(3) of Part 1, Class AA of the GPDO requires, as a condition of the permission, that prior approval be sought for the matters listed in that paragraph. Prior approval is required for, amongst other things, the external appearance of the dwellinghouse and the impact on the amenity of any adjoining premises.

5. In determining applications for prior approval, paragraph AA.3 (12) of Part 1, Class AA of 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) so far as relevant to the subject matter of the prior approval. I have considered the appeal on the same basis.

Main Issues

6. The main issues of this appeal are whether prior approval should be granted having regard to (i) to the external appearance of the dwelling and (ii) the amenity of neighbouring residents, with particular regard to privacy and outlook.

Reasons

Character and Appearance

7. The appeal site comprises a semi-detached dwelling on a small housing estate of 2-storey properties. As a 2-storey dwelling it contributes positively to the surrounding residential area.

8. The properties along this side of Elswick Gardens are sited at differing land levels with differing ridge heights as described by the appellant. However, building heights gradually descend to reflect the reducing topography towards the south-western end of the cul-de-sac. When viewed from within the street scene the ridge height of No 25 Elswick Gardens therefore appears taller than the appeal site, which in turn is higher than the dwelling at No 21[1].

9. Even if I could accept that the overall height of the roof would increase by a relatively limited amount[2], the erection of an additional storey would result in a significant increase to the bulk and scale of the dwelling, particularly through the raising of the eaves. With windows proposed at second floor within the front elevation of the proposed front extension, it would clearly appear as a 3-storey dwelling in amongst an estate of wholly 2-storey dwellings.

10. Rather than appearing anchored, the proposed development would unbalance the form of the host dwelling, being significantly taller than it would be wide. The established rhythm of descending roof heights as viewed from within the street scene would be disrupted, as well as in private views from the dwellings within the terrace to the rear. The incongruous and jarring impact would be exacerbated by the position of the existing dwelling forward of the properties to either side, and the already substantial difference in land level with No 22 Elswick Gardens. Matching materials and a design that reflects the existing form of the host dwelling would be insufficient to mitigate the harm caused.

11. The appellant suggests with reference to a previous appeal decision, that the visual assessment of the proposal should be limited to the impact on the house itself and not the wider street scene[3]. However, the appeal decision pre-dates the CAB Housing judgement which clarified that the effect of exercising the rights afforded under Class AA on the external appearance of the dwelling, extended to the impacts on the dwelling and the locality[4]. The previous appeal decision does not therefore affect my findings.

12. For the above reasons, the proposed development would harm the external appearance of the dwelling including its locality, and would therefore fail to satisfy paragraph AA.2.(3)(a)(ii) of Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO. Insofar as is relevant to this issue, the proposal would be contrary to the Framework which requires development to be well-designed and sympathetic to local character.

Living Conditions

13. The proposed upwards extension would include new windows within the front and rear elevations with corresponding rooflights in the roof slopes above. It seems to me that the second-floor windows would be low down in the elevation and the rooflights would be angled and above head height[5]. Consequently,

[1] As evidenced within Figure 1 of the appellant's statement of case.
[2] 1.8m as cited by the appellant at paragraph 6.2 of their statement of case.
[3] Appeal decision APP/X1735/D/21/3269472.
[4] CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194.
[5] As shown on proposed plan drawing number 003 Rev B, proposed front elevation.

direct overlooking of the private rear gardens belonging to No's 17 Elswick Garden's opposite and No's 22 and 24 to either side, is unlikely to occur. Nevertheless, the presence of additional windows at an elevated height is likely to result in an increased perception of overlooking for the occupants of these properties, negatively impacting their enjoyment of their private rear gardens.

14. The Council also raises concerns regarding the proposal being overbearing in relation to neighbouring dwellings, but without qualifying whether this is in relation to the outlook from habitable windows or private outside spaces. From my observations, the increased height and the associated bulk and mass that would be created at roof level would not unduly enclose the outlook from the windows or rear garden space of No 24, given it is set slightly behind the host dwelling and that the single storey garages provide a sense of separation.

15. However, No 22 is already at a lower land level, such that the proposed increase to the height of the dwelling in proximity to the boundary would exacerbate its scale detrimentally, despite the slightly set back position of the rear elevation. Thus, it would result in an oppressive sense of enclosure to the rear garden of No 22, adversely affecting the living conditions of the occupiers.

16. A dense conifer hedge forms the rear boundary to the appeal site providing screening between it and the rear elevation of the terraced dwelling immediately to the south. Given this intervening boundary feature and the distance between the dwellings, the proposal is unlikely to significantly affect the outlook afforded to the occupants of this nearby dwelling.

17. The proposal would result in adverse impacts on the living conditions of neighbouring residents with regard to a perceived loss of privacy and the outlook afforded to the rear garden of No 22. As such, it would be contrary to the requirements of paragraph AA.2.(3)(a)(i) of Schedule 2, Part 1, Class AA of the GPDO and paragraph 135 of the Framework which seeks to achieve a high standard of amenity for existing users.

Other Matters

18. I do not doubt that some estates have variety in the ridgelines of the dwellings. However, the examples cited in support of the appellant's case appear to be purpose built 2.5 storey houses on modern estates, with dormer windows within the roof slope and a consistent eaves line with neighbouring properties[6]. The proposal before me is for the upward extension of an existing dwelling in a street where the building heights are limited to 2-storey's and set deliberately to follow the associated decreasing topography. The presence of 2.5 storey dwellings in other residential areas does not affect my findings.

19. The absence of objections from neighbouring occupiers is not an indication of a lack of harm and I have come to a different view for the reasons given above.

Conclusion

20. The proposal would not constitute permitted development under the terms of Schedule 2, Part 1, Class AA of the GPDO. Consequently, having had regard to all matters raised, the appeal is dismissed.

M Clowes

INSPECTOR

[6] Middle Lodge Road and Blake Water Road developments in Clitheroe, as referred to in the appellant's statement of case.