

## Appeal Decision

Site visit made on 17 September 2024

**by A Caines BSc (Hons) MSc TP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 September 2024**

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**Appeal Ref: APP/N4720/D/24/3344899**

**Dean Head Farm, Dean Head, Yeadon, Leeds LS18 5HU**

- 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 Ms A Grayston against the decision of Leeds City Council.
  - The application Ref is 24/02063/DPD.
  - The development proposed is an additional storey to existing dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. 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) permits the enlargement of a dwellinghouse consisting of one storey by the construction of one additional storey, subject to various limitations and conditions.
3. Article 3(4) of the GPDO outlines that nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.
4. The Council considers that due to a condition imposed on the original planning permission for the dwelling, the proposed development would be contrary to Article 3(4) as set out above. Additionally, the Council also went on to refuse prior approval in relation to the effect on the external appearance of the dwellinghouse and the amenity of neighbouring occupiers in terms of outlook and light.

### Main Issues

5. Given the above, the main issues are:
  - Whether the proposal would constitute permitted development; and if so,

- The effect on i) the external appearance of the dwellinghouse; and ii) the amenity/living conditions of adjoining occupiers with particular regards to outlook and light.

## Reasons

### *Whether Permitted Development*

6. The building subject to this appeal is a stone-built former barn located in the open countryside and Green Belt. In 2003, planning permission<sup>1</sup> was granted for a change of use to a dwellinghouse, subject to the condition (No 6) that *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any orders revoking or re-enacting that Order with or without modification) planning permission shall be obtained before any extensions, garages, walls forward of any main walls of the dwelling house which front onto a road are erected."*
7. There is a dispute between the main parties over whether the condition removes permitted development rights for any extensions at the property, or just those beyond the front elevation. The appellant suggests the latter.
8. Caselaw holds that a condition must be construed objectively and by what a reasonable reader construing the condition in the context of the permission as a whole would understand.
9. It is not unreasonable to consider that, given the nature of the original development and its Green Belt location, the whole premise of the condition is to control certain forms of otherwise permitted development that could potentially detract from the rural character of the building, or result in the further addition of built volume that may be disproportionate and increase the spread of development across the site to the detriment of openness. When considered in this context, it does not make sense to suggest that the condition only seeks to control development at the front of the property. Also, the GPDO at the time already restricted extensions and garages at the front so it was not necessary to repeat that in a condition.
10. To my mind, a sensible and objective reading of the condition is that the use of commas break down the listed forms of development into 3 separate parts, such that the reference to *"forward of any main walls of the dwelling house which front onto a road"* only applies in the case of walls, which I understand to be means of enclosure. Thus, the proposed extension would fall under the control of the condition.
11. I therefore find that the proposal cannot be permitted development as it would be contrary to the condition imposed on the planning permission.
12. Given the above, I am not required to consider the prior approval matters. However, I acknowledge that one may take the view that the wording of the condition is open to interpretation. Therefore, and for the avoidance of any doubt, I consider it is appropriate for me to proceed to consider the relevant prior approval matters in this instance.

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<sup>1</sup> LPA ref: 29/1/03/FUL

### *External appearance*

13. The appeal building is a traditional stone building with a simple form and relatively low height. The conversion to a dwelling has been undertaken with minimal alterations, preserving its original form and intrinsic identity as a former agricultural building. As a result, it sits unobtrusively within the distinctly rural surroundings.
14. The proposal would be commensurate with the height of the neighbouring two-storey houses and would utilise matching materials. Nonetheless, an additional storey would fundamentally alter the scale and appearance of the building, also making it far more conspicuous within the landscape. This would be particularly evident during the winter months when the screening from surrounding hedges and trees is less effective. Moreover, the amount, size, and design of the new fenestration in the front and rear elevations, including large floor-to-ceiling windows and French doors with Juliet style balconies, would appear overtly domestic, unbalanced, and out of keeping with the traditional style and character of the existing building.
15. Overall, I find that the proposal would lead to significant harm to the external appearance of the dwellinghouse. Thus, the proposal would conflict with paragraphs 131 and 135 of the National Planning Policy Framework (the Framework) as it would not be visually attractive as a result of good architecture, would not be sympathetic to local character, and would not create high quality, beautiful buildings or places.

### *Amenity/living conditions*

16. The Council's amenity concerns are solely in relation to Welburn House, which has a number of windows in its gable end. However, those at ground floor level already closely face the boundary fence and gable of the appeal property. There is a small bedroom window at first floor level, but this is a secondary window. The main window to this bedroom is in the rear elevation which will continue to enjoy an uninterrupted outlook over the surrounding fields. As such, I do not consider that the proposal would have any significant effect on the light and outlook to those windows.
17. In addition, the garden space of Welburn House lies to the north of the buildings, and so, will already experience some overshadowing. Any additional overshadowing as a result of the proposal would be very limited in extent and duration, and therefore minimal in effect.
18. I therefore find that the proposal would not adversely affect the living conditions/amenity of neighbouring occupiers with particular regard to outlook and light. In this respect, the proposal complies with paragraph 135 f) of the Framework where it promotes health and well-being, and seeks a high standard of amenity for existing and future users.

### **Conclusion**

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

*A Caines*

INSPECTOR