



Appeal Decision

Site visit made on 11 December 2024

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/X0415/D/24/3343503

Finch House, Finch Lane, Buckinghamshire, Little Chalfont HP7 9LU

- 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 Mrs G Garrett against the decision of Buckinghamshire Council.
 - The application Ref is PL/24/0485/PAHAS.
 - The development proposed is the erection of first floor extension over existing single storey.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Grace Garrett against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO), planning permission is granted for the enlargement of a dwellinghouse consisting of the construction of an additional storey (as in this case) subject to limitations and conditions set out under Class AA.1 and Class AA.2. The Council's concerns relate only to the conditions of paragraph AA.1(c) and AA.1(h).

Main Issues

4. The main issues are whether the proposed development complies with the requirements of paragraphs AA.1(c) and AA.1(h) of Schedule 2, Part 1, Class AA of the GDPO.

Reasons

AA.1(c)

5. The appeal site comprises a chalet style dwelling on Finch Lane. The proposal seeks prior approval for the erection of a first floor extension over the ground floor rear projection at the property. Paragraph AA.1(c) of Schedule 2, Part 1, Class AA of the GDPO is clear that development will not be permitted under Class AA if the dwellinghouse was constructed before 1 July 1948 or after 28 October 2018.

6. The appellant refers to an appeal decision¹ relating to the appeal property, the site visit for which was on 6 November 2018. The Inspector in that case states that at that time the “replacement houses”, being the appeal property and neighbouring dwelling, existed. It is therefore the appellant’s case that the appeal property was not constructed after 28 October 2018, and a declaration to this effect is provided on the application form.
7. However, while the Inspector does refer to the appeal property existing at the time of their visit, they are nevertheless clear that the construction of the dwellinghouse, though apparently quite advanced, was still ongoing. As such, the appeal property had not been fully constructed by 6 November 2018. Furthermore, photographs taken on 27 October 2018 as provided by the appellant show construction to be ongoing on this date, with scaffolding surrounding the structure and a clear gap in the brickwork where it appears a door is yet to be installed.
8. I note the appellant’s reference to section 55(2)(a) of the Town and Country Planning Act 1990, and the case of *Burroughs Day v Bristol City Council* 1996. I further acknowledge that the wording of paragraph AA.1(c) expressly refers to the dwellinghouse being “constructed” rather than “completed”. Nevertheless, a distinctive characteristic of a dwellinghouse is that it can afford those who use it the facilities required for day-to-day private domestic existence. It reasonably follows that a dwellinghouse cannot exist until it has been constructed to a standard that would provide such facilities.
9. It is clear from the photographs that the structure at the site was not at a stage to provide such facilities one day prior to the relevant date in Class AA.1(c). Having regard to the reference to ongoing construction in the later appeal decision, there is little to demonstrate that one day later, on 28 October 2018, such a standard had been achieved. On this basis, I do not find the dwellinghouse at the appeal site to have been constructed on or before this date, but rather that it was still undergoing construction at this time. The observations of the previous Inspector that, notwithstanding ongoing construction, the appeal property was deemed to have existed at a later date, do not alter my findings.
10. I note the appellant’s statement that satellite images and online brochures referred to in the Council’s evidence did not relate to the appeal property. However, these documents were not provided to me and I have therefore had limited regard to this evidence. Nevertheless, it remains for the reasons given above that I find the dwellinghouse at the site to have been constructed after 28 October 2018.
11. For the reasons given, I conclude that the proposed first floor extension would not meet the qualifying criteria under Schedule 2, Part 1, Class AA.1(c) of the GPDO.

AA.1(h)

12. Paragraph AA.1(h) of Schedule 2, Part 1, Class AA of the GPDO states that development will not be permitted under Class AA if the floor to ceiling height of any additional storey, measured internally, would 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.

¹ APP/X0415/W/18/3205309

13. Scaled plans were submitted showing the existing and proposed external elevations of the appeal property. The appellant acknowledges that no cross-section drawings were submitted but states that, on the information provided, it can be concluded that the proposal would comply with the measurements of paragraph AA.1(h), such that it would be permitted under Class AA.
14. Nevertheless, the wording of paragraph AA.1(h) is clear that the floor to ceiling height of both the proposal and the existing dwellinghouse should be measured internally, which is not possible on the plans provided of the external elevations. Even noting the detailing of the plans provided, including the positioning of the new window to the proposal, I cannot be certain of the current or proposed floor to ceiling heights of the appeal property or the proposed extension.
15. Therefore, based on the evidence before me I cannot be satisfied that the proposal would meet the qualifying criteria under Schedule 2, Part 1, Class AA.1(h) of the GPDO.

Conclusion

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

C Rafferty

INSPECTOR