



Appeal Decision

Site visit made on 14 January 2025

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/J0405/D/24/3346072

Three Corners Piece, Granborough Road, North Marston, BUCKINGHAM, MK18 3PP

- 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 S & Mrs G Loft against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 24/01081/PAHAS.
 - The development proposed is Prior Approval application (Part 1, Class AA) for the construction of an additional storey to create first floor living accommodation; height of 6.45 metres.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for specified forms of permitted development (PD) subject to limitations and conditions.
3. Schedule 2 Part 1 Class AA (b) of the GPDO permits the enlargement of a dwellinghouse by the construction of one additional single storey where the existing dwelling house consists of one storey, immediately above the topmost storey, together with engineering operations reasonably necessary for the purpose of that construction. Section AA.1 sets out where development is not permitted and AA.2 imposes specified conditions. Of these AA.2 (3)(a) concerns a requirement to obtain Prior Approval of various aspects including (ii) the external appearance of the dwelling house including the design and architectural features of the (aa) principal elevation and (bb) any side elevation that fronts a highway.

Main Issue

4. In the context of the Prior Approval regime, the main issue is the effect of the height of the additional storey of the building on the character and appearance of the surrounding area of countryside.

Reasons

Background

5. The appeal site lies in open countryside and comprises a single storey timber building, which is partly used as a dwellinghouse, and various outbuildings, containers and a menage. It is proposed to erect a first-floor addition over part of the building, with timber elevations and a low-pitched roof clad in corrugated sheeting, to an overall height of 6.45m.
6. The Council set out the planning history of the site and that most relevant to this case relates to a Certificate of Lawfulness granted on appeal in January 2023¹. In this the Inspector concluded on the evidence that there were two planning units at the site. In summary, an agricultural use on a defined part of the site, and a primary residential use in part of the stable building was lawful because the period in which enforcement action could be taken had expired. Following this decision the Council had issued two other certificates of lawfulness including one for the proposed erection of an outbuilding under Part 1 Class E, and an extension to the dwelling under Part 1 Class A.

Legal context

7. It is the appellant's case that the Council's refusal of the proposed upward additional storey because of its height alone negates the whole provision of Class AA to be exercised at the dwelling house. It would be very difficult in practical terms to design an upward addition of a lesser height. The appellants say that the Council appears to challenge the whole basis of Class AA as a 'permitted development right'.
8. In support of this the appellants refer to appeal decision APP/T1410/W/20/3263486 as issued on 12 April 2021. Although related to a different part of Schedule 2, Part 1 of the GPDO the inspector concluded that while the external appearance of the upward extension may appear incongruous in the street scene, acceptance of such (impact) was implicit in the introduction of these permitted development rights.
9. The Council refers to the decision of the Court of Appeal in *Cab Housing Limited*² as handed down on the 23 February 2023. In this the Council highlight that it was held that the assessment of *external appearance* in Prior Approval cases is not limited to the impact on the subject property itself but can include neighbouring premises and the wider locality.
10. Moreover, my reading of the *Cab Housing* judgment is that the Court considered the relationship between the PD right establishing the principle of the development and the consideration of factors in the Prior Approval assessment in paragraphs 20-33. Crucially the Court held in paragraph 26 that:

“It would be a basic misconception, therefore, to suppose that the generic parameters in paragraph AA.1 override the prior approval process requisite in each case or dictate its outcome, or, for example, that there is an automatic entitlement under Class AA to build to the maximum heights provided in paragraph AA.1. It is open to the local planning authority, in determining the application for the prior approval for a particular development complying with the generic parameters in paragraph AA.1, to decide whether such approval should be granted or refused.”

¹ APP/J0405/X/21/3287617

² *Cab Housing Ltd v SSLUHC* [2023] EWCA Civ 194

11. Although this comment was made under the issue concerning the ‘scale and the principle of development’ it appears to me that it applies equally to the factor of height within the context of assessing external appearance.

The external appearance

12. In considering this aspect I have had regard to the provisions of the development plan but only in so far as relevant and as an aid to considering the specific issue of the external appearance of the proposed addition.
13. The appeal site lies in an isolated position in the countryside. There is a mature roadside hedge along the frontage with Granborough Road and this provides natural screening of much of the spread of single storey dwelling and stable and other buildings and structures on the site. The dwelling has simple timber elevations and a low-pitched roof which appear to stem from its origins as a stable building.
14. In relation to the assessment of ‘external appearance’ under (3)(a)(ii) it appears to me that the principal elevation of the dwelling house would be the elevation facing north as that contains the main front door to the property.
15. Although the proposed additional storey continues the elevational treatment of timber cladding the additional height of the building coupled with a low pitch roof in a corrugated material would result in the enlarged building being much more visible and prominent in the rural landscape. Moreover, the architectural features of the building with a low-pitched roof and extensive fenestration at first floor would not result in an appropriate well-designed residential building sympathetic to local character but would appear overtly utilitarian. The impact of the design of this main elevation would be seen in a sideways-on view from Granborough Road above the current roadside hedge. The side elevation facing the road would also have a blank elevation and would appear stark in its setting.
16. I find that the addition proposed would not respect and complement the vernacular character of the locality due to its prominence, proportions and architectural form, but would be an imposing feature in the landscape which would harm the character and appearance of the countryside.
17. As such the proposal also conflicts with Policies BE2 and NE4 of the Vale of Aylesbury Local Plan and Policy NE1 of the North Marston Neighbourhood Plan. It also conflicts with the guidance in the National Planning Policy Framework (as issued in December 2024) to achieve well-designed places and ensure that new development is visually attractive and sympathetic to local character and landscape setting as described in paragraph 135 of the document.
18. Overall I conclude that the Council’s refusal of Prior Approval was well-founded.

Conclusion

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

David Murray

INSPECTOR