



Appeal Decision

Site visit made on 21 November 2023

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

an Inspector appointed by the Secretary of State

Decision date: 25th January 2024

Appeal Ref: APP/T2350/W/23/3322501

The Deer House, Woodfold Park, Mellor, Lancashire BB2 7QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval 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 appeal is made by Mr Dalal against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2023/0106, dated 4 February 2023, was refused by notice dated 24 March 2023.
 - The development proposed is prior approval for an additional storey to the existing single storey main building of the dwelling to create a two storey dwelling with additional windows at first floor level on the front and rear elevations.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The description of development in the banner heading above is taken from the Council's decision notice as it more accurately describes the proposal. 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, including the design and architectural features of the principal elevation.
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, as if the application were a planning application. I have considered the appeal on the same basis.

6. The appellant submitted a Preliminary Roost Assessment (PRA), a Dusk Emergence Survey (DES) and a section drawing indicating the internal head height of the ceilings with their appeal. In converting the appeal to the written representations procedure, the parties were given the opportunity to comment on the additional information, such that there would be no prejudice to their interests by taking it into account.
7. The Council confirmed that in light of the submission of the section drawing, it no longer sought to defend reason for refusal number one, as the floor to ceiling height of the proposed additional storey was considered to satisfy criteria AA.1(h)(i) and (ii) of the GPDO. There is no evidence before me to suggest I should take an alternative view. As this is no longer a matter in dispute, the main issues of the appeal are therefore;
 - i) whether prior approval should be granted having regard to the external appearance of the dwellinghouse; and
 - ii) the effect of the proposal on protected species.

Reasons

External Appearance

8. The appeal site comprises a detached single storey dwelling of sandstone walls under a blue slate roof. The front elevation of the property contains a date stone inscribed with 'AD 1765, rebuilt 1798 and 2002.' It lies within the Grade II listed Registered Park and Garden (RPG) of Woodfold Park, designated for being a designed landscape in association with the former estate of Woodfold Hall, a grade II listed Palladian country house. The special interest and significance of the RPG therefore lies in its aesthetic, evidential and historic value as a former country estate.
9. Whilst the appeal site does not form part of the description of the RPG, it nonetheless falls within the designated heritage asset, to which the Grade II listed buildings of the Hall and Orangery contribute, in addition to the unlisted but nonetheless historic buildings of the Deer House, Woodfold Park Farm and Huntsman's Cottages.
10. The appeal site therefore has a high quality and picturesque parkland setting consisting of wide-open pastoral fields, woodland planting and occasional sporadic built form associated with the former country estate use. As its name implies, the appeal property was originally a deer house relating to the function of the RPG as a country estate. Whilst the dwelling has been altered and extended, it retains its simple single-storey linear form and elements of the historic stone fabric and appearance, including the large, quoined opening to the front elevation. The appeal property nestles into a depression and is therefore low-lying and discrete within the landscape. Its siting and scale therefore ensures it appears as a subservient and ancillary structure within the RPG, separate and in contrast to the other estate buildings. It thus has a distinctive quality which contributes meaningfully to the character and significance of the RPG.
11. The GPDO does not exclude dwellings within RPGs from the permitted development rights afforded under Class AA. However, that does not mean upward extensions are automatically acceptable. There is still a requirement to consider the effect of exercising these rights on the external appearance of the

dwelling, which the courts have found extends to impacts on the dwelling and the locality¹, in this case being that of the RPG.

12. Despite the use of matching materials, the proposal would create a 2-storey dwelling of a suburban appearance that would be discordant with the historic parkland setting. The additional storey would further result in a considerable increase in the height and upper bulk and mass of the host dwelling. As acknowledged by the appellant,² this would result in a more visually prominent dwelling that would stand up more conspicuously in the designed landscape than the current situation.
13. In the absence of any evidence to the contrary, such as a landscape visual assessment or heritage statement, it has not been clearly demonstrated that the proposal would be successfully absorbed into the RPG landscape without causing harm. I observed that whilst there is a band of trees to the west of the appeal site, the proposed development would nonetheless be visible in key viewpoints within the RPG, particularly those from the north/south access road through the estate. It would also be visible in private views from the upper floor windows within Woodfold Park Farm, particularly when the trees are not in leaf, as was the case at the time of my visit.
14. The proposal would result in the original subservient scale and form and therefore the visual appreciation of the ancillary function of the Deer House, being lost entirely. Simultaneously, the proposed upward extension would elevate the scale of the building such that it would visually compete with the historic buildings within the RPG specifically Woodfold Park Farm, appearing more visually intrusive than the current situation. Whilst it would not directly affect the listed buildings of the Hall and the Orangery, it would nonetheless affect their setting which is formed by the RPG. The proposal would appear out of place, thereby failing to preserve the historic and pastoral setting of the RPG.
15. Consequently, 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.

Protected Species

16. Although the impact of development on protected species is not specifically referred to in the GPDO, consideration is nonetheless required under the duty imposed by Regulation 9 of the Conservation of Habitats and Species Regulations 2017. This requires deliberation as to whether there is a reasonable likelihood of protected species being present and affected by a proposal, including those requiring prior approval.
17. A PRA submitted with the appeal indicated that the appeal site had moderate roosting potential for bats which are a protected species. It recommended a minimum of 2 surveys to identify the presence or otherwise of bats. A further DES elevated the risk category to 'high,' given the extent of bat access within the fascia's, 5 different species of bats being recorded and the emergence of a

¹ CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194.

² Paragraph 3.16 of the Appellant's statement of case.

bat from the dwelling during the survey. Due to the elevated risk, 2 further surveys were recommended in line with best practice, particularly as it was noted that common pipistrelle species can change roost over the course of a season. The DES advised that a licence would be required from Natural England as the bat roost would be directly impacted by the proposed development. This would require proportionate compensation for the loss of the roost.

18. Paragraph 186a) of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
19. In light of the high risk presented by the proposal, the strict protection afforded to bats, and that additional surveys are not before me, I am not satisfied that the regulations would not be breached by the proposal, or that Natural England would grant the required licence. Circular 06/2005 advises that ecological surveys should only be left to a planning condition in exceptional circumstances, which have not been advanced here. Without them, the true impact of the proposal on bat species is unknown and therefore, the acceptability of any suggested mitigation may not be sufficient.
20. For the above reasons, I cannot conclude that the proposal would not adversely affect protected species, specifically bats. The proposal would therefore conflict with paragraph 186 of the Framework and Regulation 9 of the Conservation of Habitats and Species Regulations 2017.

Other Matters

21. The frustration of the appellant in respect of the handling of the planning application is acknowledged, but nonetheless is a matter for the parties.
22. The parties agree that the proposal would not result in harm to neighbouring amenity, with regard to overlooking, loss of light or privacy. This represents a lack of harm, which is neutral in the overall planning balance. Acceptability in this regard does not automatically render the external appearance of the dwelling as being appropriate, given that they are 2 distinct issues.

Conclusion

23. The proposal would not constitute permitted development under the terms of Schedule 2, Part 1, Class AA of the GPDO. It would also conflict with Regulation 9 of the Conservation of Habitats and Species Regulations 2017. Consequently, having had regard to all matters raised, the appeal is dismissed.

M Clowes

INSPECTOR