



# Appeal Decision

Site visit made on 5 December 2023

**by A Hunter LLB (Hons) PG Dip MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2023**

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**Appeal Ref: APP/R5510/W/23/3321565**

**10 Hartshill Close, Uxbridge, Hillingdon UB10 9LH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 (GPDO) 2015 (as amended).
  - The appeal is made by Mr Charan Singh against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref 30535/APP/2022/3768, dated 8 December 2022, was refused by notice dated 30 January 2023.
  - The development proposed is described as "The addition of an additional second floor to provide one extra bedroom and a bathroom. The additional floor has been designed to provide accommodation set within the roof space. The pitch of the roof facing the highway has been maintained at his original pitch but raised up."
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## Decision

1. The appeal is allowed and prior approval is granted 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) for the erection of an additional storey to dwellinghouse at 10 Hartshill Close, Uxbridge, Hillingdon UB10 9LH in accordance with the application ref: 30535/APP/2022/3768, made on 8 December 2022 and the details submitted with it, namely plan numbers: 22/3502/01; 22/3502/02; 22/3502/06; and 22/3502/07.

## Preliminary Matters

2. For clarity the description of development in the decision above has been taken from the Council's notice of decision and the appeal form as it most accurately describes the proposed development and removes superfluous information.
3. 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 GPDO), planning permission is granted for the enlargement of a dwellinghouse consisting of the construction of one additional storey subject to limitations and conditions.
4. Paragraph AA.2.(3)(a) requires that before beginning the development, the developer must apply to the Council for prior approval in relation to certain matters. In this case the Council considered that the proposal met the limitations and restrictions of Class AA and it's reason for refusal relates only to paragraph AA.2.(3)(a)(ii), regarding the prior approval matter of the external appearance of the dwellinghouse. Based on the evidence before me, I am also satisfied that the proposal would not fall outside any of the limitations and restrictions in paragraphs AA.1.(a) to (k) of Class AA, or result in adverse

impacts in respect of the other prior approval matters. I have therefore confined my reasoning to the prior approval matter of external appearance.

5. The GPDO requires that when determining an application under Class AA, regard should be had to the National Planning Policy Framework (the Framework) as far as relevant to the subject matter of the prior approval. It was also held in *CAB Housing Ltd v SSLUHC & Broxbourne BC (2023)* that external appearance is not limited to the effect on the dwellinghouse and can include the effect on adjoining and nearby properties. The appeal proposal will be determined on this basis.

## **Main Issue**

6. Therefore, the main issue is the effect of the proposed development on the character and appearance of the dwellinghouse, and the area.

## **Reasons**

7. The appeal property is a detached two storey dwelling that faces onto Hartshill Close. The appeal property is at the end of a line of similar two-storey properties with front facing gables, which are positioned close together. There is considerable variation in the appearance of the frontages of these properties, particularly in view of their different porches and vertical tile cladding. There are also a few different house types along Hartshill Close, including No. 8, which has a different front facing hipped roof, along with some variety in roof heights, although the properties along this part of the road are all two-storey.
8. The proposal would raise both the eaves and ridge heights of the appeal property some 1 metres or so higher than they are currently, which would increase the amount of brickwork between the top of the first-floor windows and its eaves and ridge heights. Nevertheless, the proposal would see the same roof pitch retained and the modest increase in height would not unacceptably unbalance the appearance of the property or make it appear top heavy or particularly prominent, as it would retain its same broad form. For the same reasons, the proposal would sympathetically respect the design and architectural features of the property, including its principal elevation.
9. Whilst the proposal would make the appeal property higher than the properties nearby, including those with similar front facing gables, it would not be significantly higher. From its front elevation, there would be no openings at second floor level. In view of this, and the existing variety of the frontages of properties along Hartshill Close, the proposal would not appear out of scale with them, nor would it appear incongruous. Although there would be some effect on the regular pattern of the front facing gabled properties along this side of the road, due to the proposal's limited increase in height, and it being at one end of the line of this style of property, it would not harmfully disrupt this symmetry, when viewed in either direction along Hartshill Close.
10. Consequently, I find that the external appearance of the proposal would be acceptable in terms of its effect upon the dwellinghouse and the area, and the proposal would accord with the requirements of paragraph AA.2.(3)(a)(ii) of Class AA of the GPDO. In addition, the proposal would comply with paragraph 130 of the Framework, that amongst other things requires development to function well and add to the overall quality of the area and be sympathetic to the local character.

## Other Matters

11. An adjoining occupier has stated that a proposed second-floor bedroom window on the rear elevation of the appeal property would overlook part of their private garden, and due to their religious beliefs, it would prevent one of the occupiers from removing their headscarf when in the garden. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where they are in the public interest. The concept of proportionality is key.
12. I recognise the paramount importance of the neighbouring occupiers right to have their home, and private and family life respected and this is a primary consideration. Any unacceptable effect upon privacy, could interfere with the nearby occupiers' rights in respect of their home, and private and family life. Any such impacts would weigh against the proposal in these respects.
13. In this case there are 2 no. existing bedroom windows on the rear elevation of the appeal property that already allow a degree of overlooking at oblique angles towards the gardens of the adjoining properties. The proposed second floor bedroom window would be above the existing first floor bedroom windows and would allow a similar level of overlooking also at oblique angles of the adjoining objector's garden. In view of this, the level of potential overlooking towards the objector's rear garden would not be materially different to the existing situation or be harmful to the living conditions of the adjoining occupiers. Consequently, I am satisfied that allowing this appeal would not unacceptably violate the nearby occupier's rights under the HRA and would be consistent with my PSED duty contained in Section 149 of the Equality Act 2010.
14. An objector to the proposal has raised policies of the development plan which they consider the proposal to conflict with; parking objections; and objections regarding the proposal's effects upon living conditions and the host property's garden size. As set out above, with this being a prior approval under Class AA of the GPDO, policies of the development plan are not determinative. Moreover, the Council has not identified any conflict between this application for prior approval and the development plan within their reason for refusal. Given the side-by-side relationship between the appeal property and its adjoining properties, together with its proposed window positions, I am content that there would be no unacceptable effects from the proposal upon the occupiers of adjoining properties. Parking effects and garden size are not matters requiring prior approval. Consequently, those comments do not alter my conclusions above.
15. It has been suggested that an internal door height on the appeal proposal at second floor level would be very low. Notwithstanding whether the proposal would comply with Building Regulations, which are separate regulations, this is

not a reason to object to the prior approval matter of external appearance, nor is it directly relevant to Class AA of the GPDO.

16. I acknowledge that the appellant has submitted a fall-back position in terms of dormer roof extensions should this appeal be dismissed, and referred to a Class AA approval in the London Borough of Camden (18 Hawtrey Road, London) in support of their appeal. However, as I found the external appearance of the proposal to be acceptable in my decision above, it has not been necessary for me to assess these matters.

### **Conditions**

17. The GDPO grants planning permission under Class AA subject to conditions including a date for completion; that the materials to be used have to be similar to those used on the exterior of the existing dwellinghouse; that no windows should be installed in the walls or roofs on side elevations of the dwellinghouse; that the roof pitch on the principal elevation matches that of the existing roof pitch on the same elevation; and following the development the dwellinghouse remains in Class C3 of the Schedule to the Use Classes Order. It also requires a report of the management of construction of the development to be submitted before the development begins, including hours of operation and mitigation of the adverse impacts of pollution on neighbours.
18. The GPDO allows for prior approval to be granted unconditionally or subject to conditions that reasonably relate to the subject matter of the prior approval. However, in this case the conditions in Class AA, as described above, are sufficient to address the potential impacts of the proposal on neighbours and as such no additional conditions are necessary.

### **Conclusion**

19. For the reasons given above and having had regard to all other matters raised, the appeal should be allowed, and prior approval should be granted.

*A Hunter*

INSPECTOR