

**Case Name:** *Cab Housing Ltd & Ors v Secretary of State for Levelling Up, Housing and Communities & Ors* [2022] EWHC 208 (Admin) (03 February 2022)

**Full case:** [Click Here](#)

**Commentary:**

Mr Justice Holgate was asked to determine three conjoined applications under S.288 of the Town and Country Planning Act 1990 against the dismissal of three appeals by Planning Inspectors against the refusal of prior approval under Class AA of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GDPO") for the enlargements of a single dwelling house by the upwards addition of up to two storeys, or one storey above a single-storey building.

Class AA.2 of Part 1 of Schedule 2 to the GDPO sets out the conditions subject to which the permitted development right in Class AA is granted and it was the interpretation of these conditions that formed the basis of the conjoined applications.

Paragraph AA.2(3)(a) reads:

- (a) Before beginning the development, the developer must apply to the local planning authority for prior approval as to
  - i. Impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;
  - ii. The external appearance of the dwelling house, including the design and architectural features of (aa) the principal elevation of the dwelling house; and (bb) any side elevation of the dwelling house that fronts the highway.

The claimants argued that (a) a planning authority's control of impact on amenity is limited to effects on properties contiguous or abutting the subject property and those effects are limited to overlooking, privacy and loss of light and (b) the authority's control of the external appearance of the subject dwelling is limited to the "designed and architectural features" of the subject dwelling.

The judge rejected the Claimants' limited construction of Class AA and dismissed all three claims for judicial review, summarising his findings as follows:

- a) The scale of any development proposed under Class AA can be controlled within the ambit of paragraph AA.2(3)(a).
- b) When interpreting paragraph AA.2(3)(a)(i) "impact on amenity" is not limited to overlooking, privacy or loss of light and "adjoining premises" is not limited to premises contiguous with the subject property;
- c) When interpreting paragraph AA.2(3)(a)(ii) the "external appearance of a dwellinghouse" is not limited to its' principal elevation and any side elevation fronting a highway or the design and architectural features of those elevations.

d) The control of the external appearance of the dwelling house is not limited to impact on the subject property itself but also includes impact on neighbouring premises and the locality.

For further discussion see [Simonicity](#).

*Case summary prepared by Juliet Munn*