
Appeal Decision

Site visit made on 17 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2020

Appeal Ref: APP/K2420/W/20/3251699

Fairways Cottage, Leicester Road, Hinckley LE10 3DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
 - The appeal is made by Ms Joanne Haddon against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 20/00041/HHGDO, dated 13 January 2020, was refused by notice dated 6 March 2020.
 - The development proposed is a rear extension.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4. of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a rear extension, at Fairways Cottage, Leicester Road, Hinckley LE10 3DR, in accordance with the application Ref 20/00041/HHGDO made on 13 January 2020, and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4.(2).

Preliminary Matters

2. Revised plans were submitted during the course of the application which the Council took into consideration and ultimately made its determination against.
3. The appellant's statement concludes with a section titled 'Award of Costs', with reference to the potential for an Inspector to initiate a costs award. However, the information provided does not contain an explicit application for costs and on the evidence before me, I do not intend to take this matter further.

Reasons

4. Paragraph A.1.(g) of Schedule 2, Part 1, Class A of the GPDO permits the enlargement of a detached dwellinghouse by the erection of a single storey extension that extends no more than 8m from the rear of the original dwellinghouse, subject to the process of prior approval set out at Paragraph A.4. being followed.
5. Paragraph A.4.(10)(c) provides that the development subject to the prior approval process shall not begin before the expiry of 42 days following the date on which the required prior approval information was received by the Council without it notifying the developer as to whether prior approval is given or

refused. The appellant argues that the Council failed to notify her of its decision within this statutory period.

6. The application was submitted on 13 January 2020, comprising an application form, design and access statement and a number of plans, including a site location plan and drawings of the proposed extension showing its external dimensions. Having regard to the judgement of the Court of Appeal in *Murrell*¹, concerning the adequacy or otherwise of the content of a prior approval application made under Class A and the validity of a subsequent determination, I find that this information satisfied the requirements of Paragraph A.4.(2). The Council confirms that it received this information on 15 January 2020. Therefore, the 42 day statutory period to determine the application commenced from that date and ended on 26 February 2020.
7. Upon receipt of the proposal, the Council raised concerns with the appellant about inconsistencies within the information and, after lengthy correspondence, revised drawings were received on 27 January 2020, the date when the Council 'validated' the application and considered the statutory period to have commenced. However, whilst the Council may seek further information from the developer to enable it to determine the application, this must occur within the 42 day period as the GPDO does not provide that the Council may delay the commencement of the statutory determination period, or 'stop the clock running' as expressed in *Murrell*, if the information provided at the outset has met the basic requirements of Paragraph A.4.(2), which in this case it did.
8. However, the Council issued its notice of refusal on 6 March 2020, outside of the statutory period. Therefore, prior approval is deemed to be granted on the expiry of the statutory period on 26 February 2020. Consequently, it is not open to me to consider the details submitted with the application and whether the development would otherwise be permitted development under the GPDO.
9. However, this does not mean that carrying out the development would be lawful. The development can only lawfully proceed if carried out in accordance with the conditions and limitations imposed on the planning permission granted by the GPDO. It is for the appellant to satisfy herself that the development conforms with all relevant conditions and limitations of the GPDO. If it does not, the GPDO does not grant it planning permission and the development, if constructed, may be at risk of enforcement action by the Council.

K Savage

INSPECTOR

¹ *Murrell v SSCLG* [2010] EWCA Civ 1367