
Appeal Decision

Site visit made on 23 May 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2022

Appeal Ref: APP/V1260/W/20/3264877

The Annexe, 41 Burley Road, Christchurch, Dorset BH23 7AJ

- 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(b) of the Town Country Planning (General Permitted Development) (England) Order 2015, as amended (the Order).
 - The appeal is made by Mr Ian Kendall against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/20/0796/PNHAS, dated 8 September 2020, was refused by notice dated 16 November 2020. The development proposed is described as a 'first floor addition to the existing principal single storey dwelling in accordance with GPDO (2015) Class AA'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner above is taken from the appeal form. It is clearer than the description used in the application form.
3. For the purposes of Class AA a 'storey' does not include any accommodation within the roof of a dwellinghouse, whether comprising part of the original dwellinghouse or created by a subsequent addition or alteration (paragraph AA4(2)(b)).
4. Under Article 3(1) and Schedule 2, Part 1, Class AA(b) of the Order, planning permission is granted for the enlargement of a dwellinghouse consisting of the construction of one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, subject to any relevant exception, limitation or condition.

Main Issues

5. The main issues are:
 - whether prior approval is deemed to have been granted by the Order;
 - whether the proposal would be permitted development under Class AA(b) of the Order, having particular regard to the requirements of paragraph AA.1(i); and
 - if so, whether prior approval should be granted having regard to the condition set out in paragraph AA.2(3)(a)(ii).

Reasons

Deemed prior approval

6. The Council made its decision to refuse prior approval on 16 November 2020. The appellant suggests that because this was not within 56 days, ending on 4 November 2020, he received prior approval on this earlier date. However, the Council is required to make a decision on an application for prior approval under Part 1, Class AA(b) within 8 weeks (Article 7(b) of the Order). Unlike other prior approval classes, the Order does not provide a default deemed consent under this Class AA(b) if the Council fails to make a decision within this time. Consequently, deemed prior approval has not been granted by the Order.

Permitted development

7. The appeal property was built as a residential annexe. The Council certified that its use as a dwellinghouse was a lawful use on 2 June 2016¹. I saw that it includes a first floor bedroom and a dressing room in the gabled roof space in the main front part of the building. The proposal seeks to enlarge this dwellinghouse with a new first floor and roof above.
8. Under paragraph AA.1(i) development is not permitted by Class AA(b) if any additional storey is constructed other than on the 'principal part' of a dwellinghouse. Paragraph AA4(1) defines the principal part of a dwellinghouse as 'the main part of the dwellinghouse excluding any front, side or rear extension of a lower height, whether this forms part of the original dwellinghouse or is a subsequent addition'.
9. The additional storey would span the entire width and depth of the dwellinghouse from front to back, including over a single storey hipped roof 'sun lounge' at the rear. However, even if this extension was built at the same time as the rest of the dwellinghouse, it is lower in height than the taller gabled front part. The additional storey would not, therefore, be constructed entirely on the principal part of the dwellinghouse. Consequently, the proposal would not comply with paragraph AA.1(i) and accordingly it would not be permitted development under Class AA(b).

Prior approval

10. The condition set out in paragraph AA.2(3)(a)(ii) relates to the external appearance of the dwellinghouse. The Council has considered this aspect of the proposal in the context of paragraph AA.3(12)(b) and the location of the appeal site in the Green Belt. The appellant disagrees with the Council's approach but given my finding in the second main issue, I do not need to consider this prior approval matter because it would not alter the outcome of the appeal.

Conclusion

11. For the reasons set out above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

¹ Council's application reference 8/16/0969/CLE