



Appeal Decision

Site visit made on 18 October 2022

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/V1260/D/22/3304119

36 Dorset Lake Avenue, Poole BH14 8JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs E Went against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/22/00671/F, dated 13 May 2022, was refused by notice dated 15 July 2022.
 - The development proposed is "construction of proposed 'Granny Annexe' extension to existing house and proposed new molding and canopy to portions of existing house".
-

Decision

1. The appeal is allowed and planning permission is granted for construction of proposed 'Granny Annexe' extension to existing house and proposed new moulding and canopy to portions of existing house at 36 Dorset Lake Avenue, Poole BH14 8JD in accordance with the terms of the application, Ref APP/22/00671/F, dated 13 May 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, 1860 01, 1860 02, 1860 03, 1860 04, 1860 05 and 1860 06.
 - 3) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 36 Dorset Lake Avenue.
 - 4) Prior to the commencement of the development hereby approved, a tree protective fencing plan, conforming to specifications in BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations', shall be submitted to, and approved in writing by, the Local Planning Authority. Once agreed, such fencing/ground protection shall be erected before any equipment, machinery or materials are brought on to the site and before any ground clearance, tree works, demolition or construction work, including the erection of site huts, is commenced. Such fencing/ground protection shall not be removed or breached during construction operations without prior written approval by the Local Planning Authority, but shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site.

Within the areas so fenced, the existing ground levels shall not be altered and there shall be no development or development-related activity of any

description, including trenches or pipe runs for services or drains, the depositing of spoil or the storage of materials.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

Main Issue

2. The main issue is whether the proposed development would be ancillary to the host dwelling.

Reasons

3. Policy PP13 of the Poole Local Plan (the LP) supports proposals for the expansion of a dwelling to provide a degree of independent living as part of a wider family unit subject to certain criteria. The criteria includes that the development has a functional connection with the main dwelling, that it is ancillary, has a common shared vehicular access and remains a single planning unit.
4. The site is a substantial detached dwelling within a predominately residential area. There is access from Dorset Lake Avenue and a large area of hardstanding provides parking for several vehicles. An outshot of the host dwelling extends alongside the area of hardstanding and the submitted plans show that this includes a workshop/storage area with an office above.
5. The proposed development would extend the existing outshot further into the garden, with accommodation over ground and first floors. The proposal would contain bedrooms, a bathroom, living room and kitchen facilities. As such it would provide accommodation that would be capable of being occupied independently.
6. However, the judge in the case of *Uttlesford DC v SSE & White*¹ found that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. That would, instead, be a matter of fact and degree. Therefore, while there could be little dispute that the proposed development could be capable of being occupied as an independent unit of accommodation, it is necessary to consider whether it could also be capable of being occupied as an annexe.
7. The proposed development would share the same vehicular access with the host dwelling and would be situated within its private garden. Whilst it would be possible to access the proposal without entering the main residence, the development would be physically attached to the building and there would be an internal doorway connecting the accommodation with the host dwelling. The development would clearly be read as a subservient element of the substantial host dwelling and would lie close to the principal door into the main building.
8. In addition, the appellant advises that the accommodation would be occupied as ancillary accommodation by an elderly family member. These factors lead me to consider there would be a functional relationship between the proposal

¹ *Uttlesford DC v SSE & White* [1992] JPL 171

and the host dwelling. Furthermore, because of this, the property would remain a single planning unit. Taken as a whole, the above considerations lead me to conclude that the proposed development would be capable of being occupied as an annexe to the main building.

9. In any case, even though the proposed development would have facilities for independent occupation, the proposal before me is for a residential annexe. If the structure is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
10. For the reasons outlined above, I therefore conclude that, subject to conditions, the proposed development would be ancillary to the host dwelling. As such, there would be no conflict with Policy PP13 of the LP.

Conditions

11. In addition to the standard time condition, I have specified the approved plans in the interests of certainty. Condition 3 is necessary to meet the requirements of LP Policy PP13 and I have altered the Council's suggested wording for the condition to reflect the advice of the Framework and the Planning Practice Guidance. Condition 4 is necessary to ensure trees are sufficiently protected through the development.

Conclusion

12. For the reasons given above, and having regard to the development plan as a whole, I conclude that the appeal should be allowed.

J White

INSPECTOR