



Appeal Decision

Site visit made on 6 September 2022 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Chris Forrett BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/D1590/D/22/3290535

203 Westborough Road, Westcliffe-on-Sea SS0 9JE

- 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 A, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mazdak Qayom Zada against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/02114/GPDE dated 19 October 2021, was refused by notice dated 16 November 2021.
 - The development proposed is demolition of existing extension and erection of single storey rear extension.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. From the information supplied and what I observed at my site visit, an extension has already been built at the appeal property. From the evidence before me, the Council has refused planning permission to retain the single storey rear extension and another prior approval application has also been refused.
4. Under Article 3(1) and Schedule 2 (Part 1, Class A) 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 subject to limitations and conditions.
5. Where an application is made for prior approval for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) sets out that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions that are applicable to such permitted development.

Main Issue

6. The main issue is whether the proposal would be permitted development.

Reasons for the Recommendation

7. The host property is a detached single storey dwelling with an existing single storey rear extension. It is apparent from the information before me, that the single storey extension which has been recently built at the property does not benefit from planning permission, either by the granting of express planning permission or as a result of the provisions of the GPDO.
8. In order to benefit from the provisions of Schedule 2, Part 1, Class A of the GPDO, the proposal before me must also comply with Article 3 paragraph 5 which states that the permission granted by Schedule 2 does not apply if the building operations involved in the construction of that building are unlawful.
9. In this case the existing extension is unlawful and therefore the dwelling does not benefit from permitted development rights as set out in the GPDO.
10. I acknowledge that the proposal explicitly includes the demolition of the unauthorised extension. However, at the time of this appeal decision, there would be no permitted development rights and therefore it is not possible to grant prior approval for the extension works at this time.
11. In short, the development cannot benefit from the permitted development rights given by Class A and therefore planning permission is required for the proposal. Given this, it is not necessary for me to consider the matters of prior approval.

Conclusion and Recommendation

12. For the reasons given above I recommend that the appeal should be dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be dismissed.

Chris Forrett

INSPECTOR