



Appeal Decision

Site visit made on 28 October 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/J0350/W/22/3298114

Chiltern House, 337 Bath Road, Slough SL1 5PR

- 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 20 Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Bernard Marguiles (BMR London Limited) against the decision of Slough Borough Council.
 - The application Ref Y/02069/018, dated 15 December 2021, was refused by notice dated 23 February 2022.
 - The development proposed is single storey roof extension to provide 5x self-contained flats above Chiltern House.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 20, Class AA of the GPDO permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building in commercial or mixed use.
3. Development is permitted under Class AA subject to the limitations set out under Paragraph AA.1. and the conditions set out under Paragraph AA.2., which include matters in respect of which the developer must apply to the local planning authority for prior approval.
4. The Council contends that the proposal would fail to accord with the limitation at Paragraph AA.1.(a), in that the building is less than three storeys in height above ground level. The Council has subsequently argued, following the publication of relevant case law, that the proposal would not be acceptable in respect of the prior approval matter of external appearance.

Main Issues

5. The main issues are:
 - i) Whether or not the proposal would constitute permitted development under Schedule 2, Part 20, Class AA of the GPDO;
 - ii) If permitted development, whether prior approval should be granted having regard to the effect of the proposal on the external appearance of the building.

Reasons

6. The appeal relates to a detached building, granted permission in 1985 (Ref P/02069/010). The Council contends that the dwelling is two storeys in height with a mansard roof above, within which there is a third floor of accommodation. The Council points to the original approved plans which refer to a mansard roof.
7. The appellant contends that the building is three storeys in height, pointing to the original description of development on the 1985 decision notice as 'Erection of a three storey building...'. The appellant also points to the sectional drawing of the building showing a full height third floor within the mansard roof and a separate roof void above it.
8. Part 20, Paragraph C of the GPDO sets out interpretations to be used for Part 20. Paragraph C.(2) states:-

'In Part 20 references to a "storey" do not include—
(a) any storey below ground level; or
(b) any accommodation within the roof of a building, whether comprising part of the original building or created by a subsequent addition or alteration, and accordingly, references to an "additional storey" include a storey constructed in reliance on the permission granted by this Part which replaces accommodation within the roof of the existing building.'
9. I have considered the evidence of both parties with respect to the form of the existing building. Having observed on site, I am satisfied that the building has a mansard roof above the first floor level. This is clearly understood from the sloping form which extends from the eaves level above the first floor windows, and is present on all four sides of the building. I recognise that the mansard roof is tall and likely to have been designed as such to accommodate a third floor of internal accommodation. I can also understand the original description of development referring to three storeys given the internal accommodation proposed. However, on the evidence before me, this internal accommodation, and the shallow void above, forms part of a single mansard roof to the building. Paragraph C is explicit that accommodation within the roof of a building, even if an original part of that building, does not fall within the definition of a 'storey' for the purposes of Part 20.
10. Applying this interpretation, the building comprises two storeys above ground level. Therefore, the building does not accord with the limitation at Paragraph AA.1.(a). Consequently, the proposal does not amount to permitted development under Schedule 2, Part 20, Class AA.
11. In light of this conclusion, there is no need for me to go on to consider the prior approval matters set out in paragraph AA.2.(1), or other matters raised, as this would not alter the outcome of the appeal.

Conclusion

12. For the reasons set out, the appeal is dismissed.

K Savage

INSPECTOR