



Appeal Decision

Site visit made on 24 July 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/V1260/W/24/3336361

Cavendish House, Arrowsmith Road, Merley, Poole BH21 3BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs N Armstrong against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00550/PA.
 - The development proposed is the enlargement of a dwellinghouse by construction of an additional storey.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Prior approval for enlargement of a dwellinghouse by construction of an additional storey at Cavendish House, Arrowsmith Road, Merley, Poole BH21 3BD in accordance with the application APP/23/00550/PA and the details submitted with it and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos: 9552/400; 9552/401 and 9552/402.

Procedural Matters

2. A costs claim was submitted but will be dealt with separately as it does not impact the planning merits of the appeal.
3. The host property is a detached dwellinghouse. It is part 1, 2 and 3 storeys, with additional accommodation provided in part of the roof space. The proposal would extend the height of part of the dwellinghouse to provide an additional storey again with accommodation in the roof space.
4. Schedule 2, Part 1, Class AA(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO)¹, permits development consisting of the enlargement of a dwellinghouse by construction of up to 2 additional storeys², where the existing dwellinghouse consists of two or more storeys², together with any reasonably necessary engineering operations.

¹ Going forward I will refer to Schedule 2, Part 1, Class AA of the GPDO as 'Class AA'

² As defined by Class AA(a), Paragraph AA4.(2) of the GPDO

5. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority (LPA).

Background and Main Issues

6. The appeal was made as the LPA failed to issue its decision within the necessary timeframe³. Nevertheless, they have since issued a refusal of application for prior approval⁴ and although a specific reason is not expressed on that decision notice, the officer report clearly states the LPA reasoning.
7. The main parties agree the proposal would comply with the limitations set out in Class AA, Paragraph AA.1 except that of AA.1(d), and all the conditions set out in Class AA, Paragraph AA.2(2). There is nothing before me to conclude otherwise.
8. Paragraph AA.1(d) states that development is not permitted if the existing dwellinghouse has been enlarged by the addition of one or more storeys above the original dwellinghouse, whether in reliance on the permission granted by Class AA or otherwise.
9. For completeness it is noted the LPA has assessed the proposal against the 4 criteria within Paragraph AA.2(3) which could require prior approval. In all criteria the LPA considers the proposal compliant and so prior approval would have not been required. This is not contested by the appellant and there is nothing before me to conclude otherwise.
10. Therefore, the main issue is whether the proposed development would constitute permitted development in respect to Class AA(a) with specific regard to Paragraph AA.1(d).

Reasons

11. To assess the proposal against Paragraph AA.1(d) it is first necessary to clarify what constitutes the original dwellinghouse. The LPA considers the original dwellinghouse to be as the building was built in 1984.
12. However, the appellant considers the original dwellinghouse to be as it stood in 2016. This is because in 2005 permission was granted for a change of use from singular dwellinghouse to hotel, and it was only in 2016 that permission⁵ was sought and approved to change the use of the building back to a singular dwellinghouse.
13. The conversion of the building from dwellinghouse to hotel would constitute a material change of use which would have affected the various permitted development rights applicable to that building as set out under the GPDO. Accordingly, it only stands to reason that prior to the 2016 approval there was no dwellinghouse on the appeal site. A position supported by the LPA's officer report to the 2016 approval which confirms that as a new dwelling various financial contributions were necessary, including towards the Community Infrastructure Levy and the New Homes Bonus.

³ Stated within the validation letter as 5 July 2023

⁴ Dated 6 July 2023

⁵ Planning application reference APP/16/01106/C

14. With this in mind, and in combination with the various changes the building undertook whilst it was a hotel, I find in this instance the dwellinghouse that forms the basis of this appeal came into existence in 2016. Therefore, its original form is how it stood at the date of that approval. I note this conclusion aligns with those of the appeals highlighted by the appellant.
15. As there is nothing before me to show the dwellinghouse has been enlarged by the addition of one or more storeys since the 2016 approval, I find the proposal would therefore comply with Paragraph AA.1(d).
16. Consequently, the proposal would be considered as permitted development under Class AA(a), and would comply with the conditions, limitations, and restrictions set out in Class AA, Paragraphs AA.1 and AA.2. As such, prior approval should be granted.

Conditions

17. The GPDO says prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. For the avoidance of doubt and for clarity I have imposed a plans condition. Prior approval is also subject to several conditions prescribed in the Class AA, Paragraph AA.2. It is not necessary to repeat these within the formal decision, but to assist the parties, these are summarised below.
18. Paragraph AA.2(2)(a) requires materials used in the exterior work to be of a similar appearance to those used in the existing dwellinghouse; (b) precludes windows in any wall or roof slope forming a side elevation; (c) requires the roof pitch of the principal part of the dwellinghouse to be the same as that of the existing house; and (d) requires that following the development, the dwellinghouse must be used for no other purpose than that falling within Class C3 of the Use Classes Order.
19. Paragraph AA.2(3)(b) specifies that before beginning the development, the developer must provide a report for the management of the construction, including hours of operation and measures for the mitigation of any impacts of noise, dust, vibration, and traffic on adjoining occupiers. The development must be completed within 3 years of prior approval being granted to accord with Paragraph AA.2(3)(c), and notification of the completion of development is required under Paragraphs AA.2(3)(d) and (e).

Conclusion

20. For the reasons given above the appeal should be allowed and prior approval should be granted.

RJ Redford

INSPECTOR