
Appeal Decision

Site visit made on 11 October 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2016

Appeal Ref: APP/E2205/D/16/3154764

11 Huntswood, Ashford, Kent TN23 4XN

- 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 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Jon Rose - RIK against the decision of Ashford Borough Council.
 - The application Ref 16/00016/GPDE/AS, dated 5 May 2016, was refused by notice dated 21 June 2016.
 - The development proposed is to extend the rear of the kitchen lounge area out single storey with a flat roof to 6m from the original rear wall of the house.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 to extend the rear of the kitchen lounge area out single storey with a flat roof to 6m from the original rear wall of the house at 11 Huntswood, Ashford, Kent TM23 4XN in accordance with the terms of the application Ref 16/00016/GPDE/AS, dated 5 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be completed not later than 30 May 2019.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BSP1; and EXPRO1.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion. The notification shall be in writing and shall include a) the name of the developer; b) the address or location of the development; and c) the date of completion.

Main Issue

2. The main issue is whether the proposal would constitute permitted development under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
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Reasons

3. The appeal property is a mid terrace building currently in use as a small House in Multiple Occupation (HMO) for up to 6 people (Class C4). The proposal seeks approval for a single storey rear extension with a flat roof to 6 metres (m) from the original rear wall of the house. The GPDO allows for such extensions to terraced dwellinghouses. However, it is the Council's assertion that given the current use of the appeal property as a small HMO, it does not benefit from such permitted development rights under the provisions of the GPDO.
4. Nevertheless, it is my understanding that HMOs, including those which fall within Class C4, can benefit from the permitted development rights granted to dwellinghouses by the GPDO. The test for whether a property is eligible to use the permitted development right is whether it can be considered a dwellinghouse within the context of the GPDO. On this matter, case law¹ has established that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for a day-to-day private domestic existence.
5. The appeal property has 6 en-suite bedrooms, two additional water closets, a computer room and an open plan kitchen and lounge. In my opinion, this affords to the six people who use it the facilities required for a day-to-day private domestic existence. Consequently, it would benefit from the permitted development rights granted to dwellinghouses by the GPDO. Moreover, the Council has not provided any substantive evidence or reasoning in respect of why they consider otherwise.
6. In addition, on the basis of the submitted plans and the information provided on the application form, the proposed rear extension would appear to comply with all other relevant conditions under the provisions of Schedule 2, Part 1, Class A, of the GPDO. Where these relate to exterior building materials, a suitably worded planning condition could be imposed that would ensure that these match the appearance of those used in the construction of the existing building.
7. In light of the above, I therefore conclude that the proposed rear extension would constitute permitted development under the provisions of Schedule 2, Part 1, Class A, of the GPDO.

Other matters

8. I acknowledge a number of neighbour concerns, including in respect of outlook, noise and disturbance and highway safety. However, the Council has not raised any concerns in respect of the living conditions of the occupiers of neighbouring properties. Given that the proposed rear extension would be set in from the boundaries by approximately 2m and would extend only a modest distance further than any previous extension, it would not appear overbearing for the occupiers of neighbouring properties and would not materially affect their outlook. In addition, the proposed rear extension is unlikely to generate any significant noise and disturbance during construction given its modest size and straightforward design. As such, I am satisfied that the proposal would maintain the living conditions of the occupiers of neighbouring properties. With

¹ *Gravesham Borough Council v Secretary of State for the Environment and Michael W. O'Brien* (1984) 47 P&CR 142 [1983] JPL 307

regard to highway safety, the Council did not raise this as a concern and based on the evidence before me I have no substantive reasons to take a different view on this matter.

Conditions

9. I have had regard to the planning conditions that have been suggested by the Council. I have amended some of these for clarity and conciseness. A time limit condition and a completion notification condition are necessary to comply with the statutory requirements of the GPDO. I have also imposed a condition specifying the relevant drawings as this provides certainty. In addition, I have imposed a condition relating to materials as this is necessary in the interests of character and appearance.
10. However, given that I consider the proposal would comply with the relevant conditions of Schedule 2, Part 1, Class A, of the GPDO, the Council's suggested condition No 1, which relates to the optional submission of further planning applications, is unnecessary. I also consider that the Council's suggested condition No 2 would be covered by the abovementioned plans condition and materials condition and is therefore also unnecessary.

Conclusion

11. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed and approval granted.

Alex Hutson

INSPECTOR