



Appeal Decision

Site visit made on 20 September 2016

by Paul Dignan MSc PhD

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

Decision date: 27 October 2016

Appeal Ref: APP/Y3615/X/16/3150063
33 Longmead, Guildford, GU1 2HN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Giles Maltby against the decision of Guildford Borough Council.
 - The application Ref. 16/P/00523, dated 8 March 2016, was refused by notice dated 29 April 2016.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a single storey side and rear extension.
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Decision

1. The appeal is dismissed.

Reasons

2. For the avoidance of doubt, I should explain that the planning merits of the proposal are not relevant, and they are not therefore an issue for me to consider, in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
3. The appeal concerns a detached 2 storey house on a sloping corner plot. The proposal is to extend the property to the side and rear.
4. The application was refused because the Council considered that it did not comply with Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (which I will refer to as the GPDO), specifically the limitations set out in subsections A.1(j)(i) and (iii)). I will deal with each in turn, having regard to the published DCLG guidance, Permitted development rights for householders – Technical Guidance April 2016 (the DCLG Guidance).

GPDO limitation A.1(j)(i)

5. This limitation provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and exceed 4 metres in height.
 6. The extension would extend from the eastern side elevation of the dwellinghouse, part of which is original. The matter in dispute is the point from which the height of
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the extension should be measured. Where it would attach to the side elevation it is just under 4m to the highest point, but as it extends away from the existing dwellinghouse it would quickly exceed 4m above ground level due to the sloping nature of the land. For the purposes of this part of the GPDO, where the ground is not uniform, as is the case here, ground level is to be taken as the highest part of the surface of the ground immediately adjacent to the building. However, this is clarified in the DCLG Guidance as not including any addition laid on top of the ground, the example given being decking.

7. At the point where the extension would meet the existing side elevation paving has been laid, and it is the Council's view that this has raised the ground level. However, it can be seen on site that the level of the paving where it is in line with the original side elevation is the same as the still-evident ground level at the base of the original side elevation. Hence when measured in accordance with the GPDO and DCLG Guidance I am satisfied that the extension would not exceed 4m above ground level. The proposal would therefore comply with limitation A.1(j)(i).

GPDO limitation A.1(j)(iii)

8. This limitation states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse. The width of the original dwellinghouse is 11.5m, and if the proposal is considered as 2 separate extensions, one 5.75m wide and the other 4.35m wide, then neither would exceed half of that in width. However, the cumulative width, 7.8m, would exceed the limitation.
9. The appellant's view is that they should be considered separately and not cumulatively. However, the extensions are linked and overlap. Page 28 of the DCLG Guidance provides an example where a side extension and a rear extension can be considered separately, but the key point is that the rear extension in the example has no effect on the width of the side extension because it does not join it. In this case the elements of the enlarged part of the dwelling would be joined, and hence stand to be considered together. The proposal more closely resembles the example given at page 27 of the DCLG Guidance, referred to by the Council, notwithstanding the timing of development issue, which is not relevant here. On the balance of probability therefore I consider that the width of the enlarged part of the dwellinghouse for the purposes of this limitation is the cumulative width of 7.8m, which is more than half the width of the original dwellinghouse. The proposal would therefore fail to comply with limitation A.1(j)(iii) and is not therefore development permitted by Class A.

Overall conclusion

10. For the reasons given above, I conclude that the appeal proposal is not development permitted under Class A of the GPDO. It follows that the Council's refusal to issue an LDC was well founded. The appeal fails accordingly and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Paul Dignan

INSPECTOR