

Appeal Decision

Site visit made on 15 November 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 28 November 2016

Appeal Ref: APP/C1435/D/16/3155744

12 Brooklands Avenue, Crowborough TN6 3BP

- 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, Paragraph A.4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the Order).
 - The appeal is made by Mr Hugh Lippiatt against the decision of Wealden District Council.
 - The application Ref WD/2016/1577/PD, dated 20 June 2016, was refused by notice dated 21 July 2016.
 - The development proposed is a single storey rear extension with flat and pitched roof, brick to match existing.
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for a single storey rear extension with flat and pitched roof, brick to match existing at 12 Brooklands Avenue, Crowborough TN6 3BP.

Application for Costs

2. An application for costs was made by Mr Hugh Lippiatt against Wealden District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether or not the proposed extension for which prior approval is sought is permitted development under the provisions of the Order.

Reasons

4. Paragraph A.1(i) of the Order confirms that development is not permitted if the enlarged part of the dwellinghouse would be within 2m of the boundary and its eaves height would exceed 3m. The Council considers that the overall height of the proposed extension would be 3.53m and, therefore, that it would not be permitted development. However, the dimension used by the Council is to the top of the parapet wall which runs around two sides of the extension. The Technical Guidance on Permitted development rights for householders¹ (TG) confirms that parapet walls should not be taken into account for the purposes of measuring the eaves height.
5. The side of the extension closest to the boundary with No 10 would have a small area of pitched roof which would have an eaves height of 2.953m (dimensioned on

¹ Department for Communities and Local Government April 2016

application drawing No PD16107-20) above the adjoining ground level. However, the majority of the roof would be flat and would be at a higher level. Application drawing No PD16107-20 shows that the ground level across the rear elevation of the extension rises toward the boundary with No 14, although it does not dimension the height of the extension within 2m of that boundary. An additional drawing submitted with the appellant's cost rebuttal statement confirms that the finished roof height would be 2.99m within 2m of the boundary with No 14. The definition of 'height' on page 6 of the TG confirms that, where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.

6. Accordingly, I find that the proposed extension would comply with the requirements of paragraph A.1(i) of the Order. The Council undertook the neighbour consultations required under the Order and no responses were received. There is nothing to suggest that the proposed extension would not comply with the other relevant requirements of the Order. Consequently, I conclude that it would amount to permitted development and that prior approval is not required.

Conditions

7. Since prior approval is not required, there is no facility to impose conditions other than the standard conditions set out in the Order. The appellant should note, therefore, that the Order requires at Paragraphs A.4 (13), (14) and (15) that the development shall be completed on or before 30 May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer, the address or location of the development, and the date of completion.
8. In addition, Paragraph A.3 provides that development is permitted subject to the condition that the materials used in any exterior work shall be of similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Conclusion

9. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR