
Appeal Decision

Site visit made on 28 November 2016

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

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

Decision date: 2 December 2016

Appeal Ref: APP/L5240/X/16/3143801

68 Hunter Road, Thornton Heath, Greater London CR7 8QG

- 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 Martin Kuumba Best against the decision of the Council of the London Borough of Croydon.
- The application Ref 15/04886/LP, dated 2 November 2015, was refused by notice dated 4 January 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 single storey rear extension.

Summary of Decision: The appeal is dismissed.

Procedural matters

1. The appellant failed to attend the site visit on 2 occasions and thus I have relied on the view from the public street, the submitted plans and the relevant Development Order to make my decision.
2. An application for a lawful development certificate (LDC) must be considered solely on the basis of fact and law, at the date of the application for the LDC¹ and irrespective of planning merit.

Reasons

3. Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) says that, subject to various limitations, certain alterations and extensions to dwellinghouses have deemed consent. This deemed consent is often described as 'permitted development'. Class A of Part 1 sets out the limitations and conditions that apply in respect of the enlargement, improvement or other alteration of a dwellinghouse
4. The application has been made under S192 of the Act and seeks to establish whether or not a proposed single storey extension is development permitted by the GPDO and thus does not require an express grant of planning permission.
5. It is common ground between the parties that the proposed extension does not exceed the limitations of Class A, A.1 (a)-(i) and (k). However the Council says that it exceeds the limitation of Class A, A.1(j). The limitations in Class A,

¹ S192 (2) of the Town and Country Planning Act 1990 as amended (the Act)

A.2, A.3 and A.4 do not apply other than a condition requiring the development to be constructed of matching materials.

Class A, A.1 (j)

6. This says 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:

- (i) exceed 4 metres in height ,
 - (ii) have more than a single storey, or
 - (iii) have a width greater than half the width of the original dwellinghouse.
7. The existing ground floor plan (Dwg No: CAD\BES\01-A) shows that the rear elevation of the property is not uniform. On the south side of the rear elevation is a single storey extension accommodating a toilet and larder. The location plan shows that small rear extensions are a regular and almost universal feature of the houses on this part of the south side of Hunter Road. Consequently, it seems, on the balance of probabilities, that this small extension is probably an original part of the dwelling. Moreover the terrace of about six houses including no 68 all feature a 'set back' in the alignment of part of the rear elevation about half way across each house. This set back is a design feature that extends the full height of the house so that it results in a variation in the roof line which is clearly visible from Buller Road which is to the rear.
8. The proposed rear extension would be single storey and would be less than 4 metres in height. The proposed rearward projection would enclose the original stepped rear elevation and the full width of the original dwelling.
9. The publication *Permitted development for householders: Technical Guidance* as amended April 2016 (PDTG)², provides guidance on the interpretation of the GPDO and says that "a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall". It adds, "houses will often have more than two side elevation walls". The illustrative diagram on page 23 of the PDTG shows a stepped rear elevation which has some similarity to the appeal before me in that the rear elevation does not have a uniform alignment and there are existing projections and set backs. In these circumstances any wall at No 68 which is at the back of the house but does not directly face the garden is a 'side wall' for the purposes of the GPDO.
10. Consequently there are two side walls at the back of the house, namely part of the toilet/larder projection and also the set back in the main elevation. Thus, as a matter of fact the proposed extension would extend beyond a wall forming a side elevation of the original dwelling house. It follows that because the proposed extension at the rear would extend across the full width of the house its total width would be more than half the width of the house. Consequently the proposed development exceeds the limitations in Class A, A.1(j) and does not benefit from planning permission granted by the GPDO.

² *Permitted development for householders: Technical Guidance* Department for Communities and Local Government: Updated April 2016:

11. The appellant considers "that placing so much relevance on a small 900 mm section of walling is ill judged". Whilst I acknowledge this view, I must determine the lawfulness of the proposed development in the light of the provisions of the GPDO.

Decision

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the single-storey extension at the back of No 68 Hunter Road was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me by section 195(3) of the 1990 Act as amended and uphold that decision.
13. Consequently the appeal is dismissed.

Sukie Tamplin

INSPECTOR