
Appeal Decision

Site visit made on 7 December 2016

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/T5720/D/16/3159950
18 Morton Road, Morden, Surrey SM4 6EF

- 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 appeal is made by Mr Mitsuo Kato against the decision of Council of the London Borough of Merton.
 - The application ref 16/P2372, dated 16 June 2016, was refused by notice dated 15 July 2016.
 - The development proposed is a single-storey rear extension which is attached to an existing single-storey rear extension.
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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 (as amended) ("GPDO") for a single-storey rear extension which is attached to an existing single-storey rear extension at 18 Morton Road, Morden, Surrey SM4 6EF in accordance with the details submitted with application ref 16/P2372 dated 16 June 2016 pursuant to the GPDO.

Preliminary Matters

2. Paragraph A.1.(g) of the GPDO permits, for a temporary period until 30 May 2019, single-storey rear extensions of greater depth than would otherwise be allowed under paragraph A.1.(f). However, to be permitted under the GPDO, the development must also comply with all other relevant requirements of the GPDO.
3. Furthermore, if those requirements are met, under paragraph A.4, permission would be conditional upon the developer first providing specified information to the local planning authority. That authority is then required to notify the owners or occupiers of any adjoining premises. Where objections are received, the prior approval of the local planning authority is required as to the impact of the proposal on the amenity of any adjoining premises.
4. In this case, the Council considers that the extension 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 meaning that section A.1.(j)(iii) of the GPDO would not be complied with. As the Council does not consider that the proposal would be permitted development, and

refused the application on that basis, it did not deem it necessary to assess the impact on amenity despite the fact that objections were received from the occupants of one adjoining property and two other local residents.

Main Issues

5. In light of the above, the main issues in the determination of this appeal are:

- whether the proposal complies with the relevant GPDO criteria for being permitted development; and, if so
- the impact that the proposal would have on the amenity of any adjoining premises.

Reasons

6. The appeal relates to a two-storey detached house that has an existing single-storey extension across its full width that projects 4 metres to the rear. Attached to one side of this existing extension is a small utility room that was erected later. To the rear, there is one substantial outbuilding on the southern boundary with no. 20 and two smaller buildings at the end of the back garden.

7. The proposal would entail the erection of a further single-storey extension across part of the existing extension that would project a further 4 metres into the garden. It would have a pitched roof with an eaves height of 2.25 metres and a ridge height of 3.8 metres.

Permitted Development?

8. This issue hinges on whether 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.

9. Government guidance published in April 2016 suggests that in considering this issue, account ought to be taken of the existing extensions to the side and rear of the original dwellinghouse¹. However, a more recent decision of the High Court is clear that the “enlarged part” of the dwelling for the purposes of Class A is only that which is being proposed under Class A².

10. In this case, the current proposal is for an extension that would be attached to, but distinct from, the existing rear extension and separate from the utility room. It would clearly not extend beyond a side elevation of the original dwelling meaning that paragraph A.1.(j) is not relevant. Whilst a local resident suggests that 49% of the garden has already been built on, the Council has not suggested that the proposal would fail to comply with paragraph A.1.(b) or any of the other relevant requirements of the GPDO, and there is no substantive evidence to lead me to a different conclusion.

11. I therefore conclude on the first main issue that the proposal complies with the relevant GPDO criteria for being permitted development.

¹ *Permitted Development for Householders: Technical Guidance* (Department for Communities and Local Government, April 2016) page 27.

² *Hilton v Secretary of State* [15 June 2016] [CO/309/2016].

Amenity of Adjoining Occupiers

12. The proposal would have the effect of introducing a building the end of which would be some 8 metres from the original rear elevation of the house. As the two adjoining dwellings are on a similar building line, the upper parts of the proposal would be visible from the rear of those properties. However, it would be set away from the side boundaries, its eaves height would not be excessive, and the roof would slope away to a modest ridge height of 3.8 metres. The existing boundary fence would ensure that there would be no significant loss of privacy in the back garden of no. 16 due to overlooking from the side windows. The existing substantial outbuilding on the southern boundary would effectively screen the proposal from no. 20 other than when seen from first floor level.
13. The length of the back garden and presence of existing outbuildings mean that the proposal would have a negligible effect on the properties to the rear.
14. I conclude on this issue that the proposal would not have an unacceptable impact on the amenity of any adjoining premises.

Other Matters

15. A number of other matters have been raised by local residents including that the property is being used to operate a bed and breakfast business. However, this is a matter for the Council to investigate as appropriate, and it is not relevant to my consideration of this appeal.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and approval granted. The appellant should note that GPDO paragraph A.3 requires the materials to be used in any exterior work to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse, and paragraphs A.4 (13), (14) and (15) require the development to 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.

William Fieldhouse

INSPECTOR