
Appeal Decision

Site visit made on 29 November 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

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

Decision date: 4 January 2017

Appeal Ref: APP/T5720/X/16/3154152

16 Rose Avenue, Mitcham CR4 3JS

- 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 A Patrick against the decision of the Council of the London Borough of Merton.
 - The application Ref 16/P1641, dated 16 April 2016, was refused by notice dated 1 June 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 the erection of a first floor rear extension on the existing ground floor extension.
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Decision

1. The appeal is dismissed.

Reasons

2. Under the Town and Country Planning (Permitted Development) Order [GPDO] Schedule 2, Part 1, Development within the Curtilage of a Dwellinghouse, Class A allows the enlargement of a dwellinghouse unless, amongst other things, the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse by more than 3m.
3. The current single storey rear extension was confirmed to be a proposed lawful development in 2015, and was built very recently. This extension extends out from the original dwellinghouse by about 6m.
4. In interpretation, the GPDO notes 'Original' means, (a) in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date or (b) in relation to a building, other than a building which is Crown land, built on or after 1st July 1948, as so built. In this case the relevant part for measuring the extension is the 'original' house. The proposed second storey part of the extension would not exceed 3m, but in combination with the recent ground floor extension the overall development would considerably exceed 3m.
5. To help with the interpretation of the GPDO Part 1, the Department for Communities and Local Government has produced Technical Guidance for Householders. It advises that the enlarged part of the house could be a two storey house or be an addition of a storey onto a part of the house which has

already been enlarged through permitted development. In that situation the entire enlarged part of the house must not extend beyond the rear wall by more than 3m, for the development to be permitted development. The 'enlarged part of the house' is defined as 'the parts of a dwellinghouse comprising any enlargement of the original house, whether built through permitted development rights or following an application for planning permission, and whether the enlargement is undertaken on a single occasion or added incrementally'.

6. The guidance also notes that the limits applying to an enlargement of a house by more than one storey will apply in all cases where the enlarged part of the house includes any part that is of more than one storey.
7. While the weight I give to the Technical Guidance is less than to the GPDO itself, it still carries considerable weight. If the GPDO were interpreted in the way that the appellant suggests, building in stages would make the provision relating to a two storey extension to a building not being able to extend beyond the rear of the original building by more than 3m effectively worthless, and would not allow the reasonable control of extensions.
8. 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 erection of a first floor rear extension on the existing ground floor extension was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Graham Dudley

Inspector