
Appeal Decision

Site visit made on 3 February 2017

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: 9 February 2017

Appeal Ref: APP/M3645/X/16/3154333

Five Acres, Little Common Lane, Bletchingley RH1 4QG

- 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 Ms L Jabbour against the decision of Tandridge District Council.
- The application Ref TA/2016/516, dated 29 March 2016, was refused by notice dated 29 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 formation of a two storey rear extension.

Summary of Decision: The appeal is dismissed.

Procedural matter and background

1. 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.
2. The property has previously been extended with the benefit of planning permission approved in 2012². This extension was described as demolition of garage and link and erection of part two storey, part single storey side and rear extension with front and side dormer and dormer to existing front roof slope. The proposed development subject of this appeal is an extension to the original part of the dwellinghouse.

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 two storey extension is development permitted by the GPDO and thus does not require an express grant of planning permission.

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

² Council reference 2012/682

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, 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 floor plans (Dwg Nos: PL/E-100 rev C and PL/E-101 rev A) show that the rear elevation of the original property is not uniform. There is a gable feature that extends the full height of the house; this projects about 310mm³ from the remainder of the elevation. The appellant suggests that the gable projection including the short flank walls are part of the rear elevation when considered as a whole.
8. However the publication *Permitted development for householders: Technical Guidance* as amended (the PDTG)⁴, 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. In these circumstances any wall which is at the back of the house but does not directly face towards the rear is a 'side wall' for the purposes of the GPDO.
9. The appellant considers, as a matter of fact and degree, that the cheeks of the gable are part of the rear elevation and should not, in the common meaning of the term, be described as 'side walls'. In this she relies on an extract from an article⁵ which clarifies the meaning of each type of elevation. However I find that this document is on all fours with the definition in the PDTG because the article says that side walls are not visible in 'straight on' views of the (front or rear) of the house. Similarly the definition in the Oxford English Dictionary refers to "a scale drawing showing the vertical projection of one side of the building". In the subject appeal, the cheeks of the gable are only visible in the side elevation drawing.
10. I acknowledge the appellant's view that the use of terms in the GPDO and the PDTG should be consistent. However I must determine the application in the accordance with the precise wording of each relevant condition and limitation of

³ This is the measurement agreed at the site visit by the main parties.

⁴ *Permitted development for householders: Technical Guidance* Department for Communities and Local Government: The version in force at the time the application was made and that updated April 2016 both have the same guidance on side elevations. The wording of this part and the explanatory diagram was unchanged by the update.

⁵ Extract from 'What are house elevations' by Anne Hirsch

the development order. In this case the proposed extension would exceed 4m in height, have more than one storey and have a width greater than half the width of the original dwelling. For this reason I do not consider the suggested flexibility in the PDTG applies.

11. I have taken account of the appeals relied upon by the appellant. In terms of the St Albans appeal, the drawings show a two storey dwelling flanked by an attached garage. From the information before me, I do not know if the garage was part of the original dwelling, but if it was it appears that the proposed extension may not have had a width greater than half the width of the original dwelling. As regards the Richmond upon Thames decision, the evidence appears to be inconsistent because the appeal decision refers to a curved feature at the rear but this is not shown on the floor plans that have been submitted and thus it is not clear where any relevant measurement would be made. In the absence of all the information that was before the Inspectors at the time I do not find that these appeal decisions are determinative. In any event it is a well-known premise that an appeal must turn on its own facts.
12. The layout of the existing house may be inconvenient, and in these circumstances I acknowledge that the appellant may have an understandable wish to extend and re-organise the house. However this is not a matter that I can take into consideration because the planning merits are not before me. I must determine the lawfulness of the proposed development in the light of the provisions of the GPDO and in this case there is no reason to set aside the guidance in the PDTG.

Decision

13. 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 proposed two storey rear extension at Five Acres, Little Common Lane, Bletchingley RH1 4QG 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.
14. Consequently the appeal is dismissed.

Sukie Tamplin

INSPECTOR