

Appeal Decision

Site visit made on 11 May 2017

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 26 May 2017

Appeal Ref: APP/L3625/C/16/3159408

Land at Gullfoss, The Glade, Kingswood KT20 6JE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Mark Saunders against an enforcement notice issued by Reigate and Banstead Borough Council.
 - The notice was issued on 19 August 2016.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of an attached double garage side extension with accommodation in the roof in excess of dimension limitations as set out in the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as shown edged red on the attached plan.
 - The requirement of the notice is to remove the attached double garage side extension with accommodation in the roof in its entirety and restore the land to its former condition.
 - The period for compliance with the requirements is within three months of it coming into effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with a correction.

Preliminary Matter

2. The appellant objects to the issue of the notice, considering that an application for planning permission should have been entertained by the Council. However the Council explained that under powers in section 70C of 1990 Act as amended, it could decline to determine applications seeking permission for a breach of planning control, where an enforcement notice has been issued against the same development that the application is seeking to regularise. It also made clear that an appeal on ground (a) would enable the planning merits of the development to be considered.
 3. Accordingly I see nothing amiss in the issue of the notice, the expediency of which is essentially a matter for the Council. Nor is the reference to permitted development inappropriate, for it merely asserts that in the Council's view the development does not benefit from permission under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 4. The notice will however be corrected to reflect the proper title of this piece of legislation, using powers available to me under s176(1)(a) of the Act.
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Ground (a) and the deemed application for planning permission

Main issue and reasons

5. The main issue on this ground is the effect of the development on the character and appearance of the host dwelling and surrounding area.
6. Gulfoss is one of a small group of three similar dwellings on the eastern side of The Glade, at the southern end adjacent to Outwood Lane. Amenity space lies to the south of the plot by Outwood Lane where several trees line the southern boundaries. To the east and south of the site on the other side of Outwood Lane is the boundary of the urban area where it meets the Green Belt and a designated Area of Great Landscape Value (AGLV).
7. The Reigate and Banstead Local Distinctiveness Design Guide 2004 (SPG) sets out that in Residential Areas of Special Character (RASC), which include the appeal site, new building should retain and enhance the existing landscape structure whilst not dominating the plot and, where possible, parking hard surfaces and garaging should not be visible from access roads. The SPG is underpinned by Policy Ho15 of the Reigate and Banstead Local Plan 2015 (LP) which among other matters requires development in RASC to maintain the existing visual predominance of tree cover and spacious gardens.
8. The appeal site benefits from two planning permissions 14/01224/HHOLD and 14/01227/HHOLD each permitting extensions at first floor level and to the rear on the southeast side. It is undisputed that neither of these permissions was in fact implemented. Instead the appellant decided to provide the extra accommodation sought by converting the double garage and erecting the unauthorised development, namely the replacement double garage that is attached to the west of the building between the side of the main house and the roadside, The Glade. This private road leads up from Outwood Lane in a north westerly direction and bends north-east at the point where the new garage has been erected in a prominent position alongside the road.
9. It is pointed out that what has been built is of a lesser mass and volume than either of the approved schemes and the replacement garage itself has a gabled pitched roof and tile hanging similar in design to the pre-existing garage. As I saw it, the unauthorised development is of a considerable bulk and mass and has extended the plot closer to The Glade. Its front elevation is in line with the main front elevation of the host dwelling and the increased width and bulk of the property, close to the road differs significantly from what was previously approved. As such it has had a harmful effect on the character of the RASC which is exemplified by tree-lined roads that mitigate the impact of the built form within the street scene. This effect is exacerbated by the new tarmac access to the west side of the plot. This has replaced an attractive grass verge with vegetation along the boundary, as can be seen in the photographs supplied of the pre-existing views of the appeal site.
10. Whilst I note the comparisons made with what could be erected under permitted development rights, the overall ridge height of the garage as erected would not benefit from such rights. Erected in such a prominent position as it has been, the height of the garage building appears comparable to that of the main dwelling and as such is a significant consideration set against the other comparisons. I therefore give this "fall-back" argument little weight.

11. Regard has been had to examples supplied of other garages nearby with accommodation in the roof space, that are said to be similar to what has been built. Several, if not most of the garages illustrated are integrated into the main roof form of the host dwelling and set well back from the road in spacious grounds, or else they appear subordinate to the main dwelling. They are not in my view comparable with the appeal site where the garage building is seen as a separate but competing form of development to its host. This is evident in the gable roof to the front where its height and scale seen from the road makes it appear as an overly dominant extension that reduces the spaciousness of the plot in which it sits.
12. The garage is said to provide a sound buffer to the main dwelling from road noise on The Glade and the extended drive makes it safer to access the house in icy conditions. That may be so but there are other means to insulate a dwelling from noise and improve the safety of an access, than to erect a structure that results in adverse effects on the character and appearance of the locality. The extra accommodation is not a factor that in my view outweighs those adverse effects, nor is the fact that the garage has the support of the neighbour who objected to the approved schemes, and other residents.
13. I conclude that the unauthorised double garage side extension with roof accommodation, by reason of its disposition within the plot, height, scale and overall mass and bulk is an overly intrusive form of development that unacceptably detracts from the pre-existing open character of the plot and the Residential Area of Special Character. For similar reasons it also harms the transitional setting of the adjacent Green Belt. The harm is substantial and contrary to SPG and Policies Ho9 (vii), Ho13 Ho15 and Ho16 of the Local Plan 2015. These policies aim among other matters to ensure extensions are properly integrated with the main dwelling and respect local character and distinctiveness.
14. The appeal on ground (a) therefore fails.

Conclusion

15. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed and I shall uphold the corrected enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

16. It is directed that the enforcement notice is corrected as follows:
 - Delete "Oder" and replace with "(England) Order"
17. Subject to this correction the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Grahame Kean

INSPECTOR