

Appeal Decisions

Site visit made on 23 May 2017

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 09 June 2017

Appeal Ref: APP/Z2830/X/16/3161592

Slapton Mill, Mill Lane, Slapton NN12 8PE

- 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 J and Mrs S Macintosh against the decision of South Northants District Council.
 - The application Ref S2015/2795/LDP, dated 16 November 2015, was refused by notice dated 19 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 two single storey extensions to replace conservatory on south west elevation and make changes to doors and windows on the north east and north west elevations.
-

Appeal Ref: APP/Z2830/W/16/3161593

Slapton Mill, Mill Lane, Slapton NN12 8PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J and Mrs S Macintosh against the decision of South Northants District Council.
 - The application Ref S/2016/1857/FUL, dated 19 July 2016, was refused by notice dated 9 September 2016.
 - The application sought planning permission for rear two storey extension without complying with a condition attached to planning permission Ref S/2015/1013/FUL, dated 16 September 2015.
 - The condition in dispute is No 2 which states that: The development shall not be carried out otherwise than in complete accordance with the approved plans Drawing No 2990 – (L) – 01 Revision W and received on 11th August 2015 and Drawing No 2990 – (L) – 03 and received on 8th September 2015 unless a non-material amendment is approved by the Local Planning Authority under the Town and Country Planning (General Management Procedure) (England) Order 2015.
 - The reason given for the condition is: To clarify the permission and for the avoidance of doubt.
-

Decisions

Appeal Ref: APP/Z2830/X/16/3161592

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is considered to be lawful.
-

Appeal Ref: APP/Z2830/W/16/3161593

2. The appeal is dismissed.

Reasons

Appeal Ref: APP/Z2830/W/16/3161593

3. Slapton Mill is a dwelling that has been created by the conversion of a former spice mill, in 1992. The building is set within extensive mainly landscaped grounds. Planning permission S/2015/1013/FUL was granted in 2015 for a rear two storey extension, which is under construction. The extension has a double gable roof, the form of which is sympathetic to the roof of the former mill. Attached to the south-west elevation of the original building is a conservatory.

4. The application sought to vary condition 2 of the planning permission by the deletion of 'Drawing No 2990 – (L) – 01 Revision W and received on 11th August 2015' and the substitution instead of 'Drawing No 3139-(L)-01'. The latter drawing illustrates the addition of a flat roofed single storey orangery to the permitted rear extension and the removal of the conservatory. With regard to the removal of the conservatory this element of the building is not part of, or subject to, the planning permission. Its removal cannot therefore be 'authorised' or 'approved' by any variation of condition 2. The Council, it is noted, has not commented on the removal of the conservatory, which is clearly uncontentious.

5. The main issue, with regard to the proposed orangery, is its effect on the character and appearance of the dwelling.

6. The Council has referred to The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) and to the proposed orangery being on the 'principal' elevation of the dwelling. Such considerations are not relevant to determination of the appeal.

7. The two storey rear extension is about 8 metres deep and is about 10.5 metres wide, almost the full width of the original building. Setting aside a small single storey element of the original building that it replaced, the extension has increased the footprint of the building by about 65%. It is a substantial extension and, despite its symmetrical side elevations but given its matching roof form, is a sympathetic extension to the mill building. The orangery would be attached to one of its side elevations. The orangery would be almost the full width of that elevation and about 3.5 metres deep.

8. The orangery extension, crucially, would have a parapetted flat roof. This design feature of the further extension of the dwelling would be wholly at odds with the form and design of the original building and the permitted substantial extension. The orangery would be an incongruous and unattractive feature of the extended building. For this reason alone the proposed orangery would have a significant adverse effect on the character and appearance of the dwelling and it thus conflicts with, in particular, saved policies H17 and EV1 of the South Northamptonshire Local Plan. The proposed orangery does not constitute good design and thus also conflicts with a core planning principle and paragraph 56 of the National Planning Policy Framework. The appeal thus fails.

Appeal Ref: APP/Z2830/X/16/3161592

9. The application sought to determine whether two proposed single storey extensions on the south-west elevation of the dwelling and elevational changes to

the north-east and north-west elevations are development permitted under the provisions of the GPDO. Development is not permitted under Class A if the extensions would extend beyond a wall which forms the principal elevation of the original dwellinghouse. The Council maintains that the south-west elevation is the principal elevation of the dwellinghouse and that the two proposed extensions are not permitted development. The elevational changes are uncontentious.

10. The Technical Guidance to the GPDO provides guidance on 'principal elevation' and states that "In most cases the principal elevation will be that part of the house which fronts...the main highway serving the house...Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principle elevation...a view will need to be taken as to which of these forms the principal elevation".

11. Mill Lane extends south-eastwards from the main road through the village and terminates at a gateway leading into a courtyard at Slapton Mill. The lane points almost directly towards the north-west elevation of the building which has a door leading into the house. With regard to the aforementioned guidance the north-west elevation fronts the highway and is, both visually and practically, the front of the house. The south-west elevation faces towards a substantial part of the landscaped grounds and, despite the presence within it of a doorway leading into what was a hallway in the original dwellinghouse before recent alterations were carried out, is a side elevation of the house.

12. The proposed single storey extensions, for the aforementioned reasons, would be attached to a side elevation of the dwellinghouse, would not extend beyond a wall forming the principal elevation of the original dwellinghouse, and would satisfy dimensional criteria set out in Class A of Part 1 of Schedule 2 of the GPDO. The two proposed single storey extensions on the south-west elevation of the dwelling and elevational changes to the north-east and north-west elevations are development permitted under the provisions of the GPDO.

13. For the reasons given above, and on the evidence now available, the Council's refusal to grant an LDC in respect of 'two single storey extensions to replace conservatory on south west elevation and make changes to doors and windows on the north east and north west elevations' at Slapton Mill, Mill Lane, Slapton was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 16 November 2015 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015

Signed

John Braithwaite

Inspector

Date: 09 June 2017

Reference: APP/Z2830/X/16/3161592

First Schedule

Two single storey extensions to replace conservatory on south west elevation and make changes to doors and windows on the north-east and north-west elevations

Second Schedule

Land at Slapton Mill, Mill Lane, Slapton NN12 8PE

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 09 June 2017

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

Land at Slapton Mill, Mill Lane, Slapton NN12 8PE

Reference: APP/Z2830/X/16/3161592

Scale: not to scale

