



Appeal Decision

Site visit made on 30 May 2017

by Pete Drew BSc (Hons) DipTP (Dist) MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/R5510/X/17/3167900

3 Owen Road, Hayes UB4 9JY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 [hereinafter "the Act"] 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 G Bhudia against the decision of the Council of the London Borough of Hillingdon.
 - The application [Ref 46647/APP/2016/3641], dated 30 September 2016, was refused by notice dated 29 November 2016.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which an LDC was sought was: "*single storey detached outbuilding to side to be used as garage for customised/classic cars owned by applicants and storage area*".
-

Decision

1. The appeal is allowed and attached to this decision is an LDC that describes the proposed operation which is considered to be lawful. A plan that identifies the land, edged in red, is attached to the LDC.

Procedural matters

2. The Council has amended the description of development on its decision notice to: "*Single storey outbuilding to rear for use as a garage for classic cars*". This revised description was adopted by the Appellant in section E of the appeal form and in the circumstances, whilst I shall delete the reference to the "*rear*" to ensure a neutral approach, I propose to deal with the appeal on this basis.
3. The Planning Practice Guidance ['the Guidance'] makes clear that the applicant is responsible for providing sufficient information to support an application. It says that in the case of an application for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a Local Planning Authority to understand exactly what is involved. In that context the decision maker needs to ask: if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?
4. At the time of my site inspection an extension had been built on the southern elevation of the property, which the main parties agreed measured 3.5 m from that elevation. This distance is shown on drawing No 16/3/ORH/103/B to exist between the house and the proposed garage and so I am satisfied that it would be possible to erect the garage with the extension in situ. There is a question about the viability of the pedestrian doorway shown in that elevation, but that is ultimately a matter for the Appellant. Although the extension incorporates a new front door in its eastern elevation this is not material to my assessment as it does not appear to have been the position on the date of the application, as is evident from drawing No 16/3/ORH/101, which shows the existing situation.

Reasons

5. It is trite to record that it is common ground that the proposed outbuilding complies with all but one of the criteria in Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 [the GPDO], e.g. in terms of height and distance from boundaries¹. The sole issue in dispute is whether the outbuilding would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
6. DCLG's *"Permitted development rights for householders - Technical Guidance"*, dated April 2017, defines the term *"Principal elevation"*. It says: *"...in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house"*.
7. The Technical Guidance continues: *"There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation"*. In this case the southern and eastern elevations of the dwelling both front onto the public highway, which turns at 90° to correspond with those elevations. Accordingly it is necessary to take a view on which of these is the principal elevation here.
8. The Council says that the principal elevation of the house is considered to be the southern elevation because it contains the main entrance to the house. Whilst that main entrance door has now been subsumed within the extension that has subsequently been erected, the layout that existed on the date of the application is shown on drawing No 16/3/ORH/101. What existed on that date can be understood from nearby examples, such as Nos 24 and 27 Bryant Road.
9. In those instances the entrance doors appear to be in the flank walls of the respective properties because the dropped kerbs serving each driveway open onto Bryant Road. This can be appreciated from the *"Site Location Plan"* in which the area between the flank wall of No 27 and Owen Road is coloured green, which is indicative that No 27 has no frontage onto Owen Road. In other words the only way to gain access to No 27 is from Bryant Road. The same can be said of Nos 4 and 7 Owen Road, which have a similar layout to No 3 insofar as the entrance doors are on the end of the block. Amongst other things I note that the door in the flank wall of No 4 has a porch, but that does not alter my view that the principal elevation of No 4 is that facing Owen Road.
10. In this broader context it would be anomalous to find that No 3, which has the same original layout as the above properties, should be different. I appreciate that the existing site plan on drawing No 16/3/ORH/101 shows a pair of gates on the southern frontage, within the means of enclosure that is shown to wrap around the majority of the road frontage. However it is doubtful whether that was the pedestrian entrance that visitors used to gain access to the property. Amongst other things the position of the gates does not line up with the main door and so this appears to have been a side entrance, such as for car parking or, noting that it better relates to the gateway serving the rear garden, to gain access to it. In contrast there is a large gap on the eastern frontage of the

¹ See analysis in section 4.0 of the Council's Delegated Report.

existing site plan and the position of the end pillar of the means of enclosure around the perimeter, as shown on that plan, would appear to have been sufficient for a path to serve the door. Both plans on drawing No 16/3/ORH/101 label this part of the curtilage to be the "*front garden*"² and that is consistent with finding that the dwellinghouse was principally orientated in this direction.

11. The eastern elevation of No 3 that faces Owen Road contains windows at ground and first floor level and, although not a traditional bay, it is reasonable to describe the ground floor window to be a bay window. In contrast there does not appear to have been a traditional enclosed porch outside the entrance door. Adopting the balance of probability, the feature outside the door shown on drawing No 16/3/ORH/101 was merely a concrete overhang³, such as is evident on Nos 24 and 27 Bryant Road. Although technically that might be said to be a porch, because it is a cover that provides shelter, such a slab of thin horizontal concrete would not be the dwelling's main architectural feature.
12. My view that the eastern elevation of the dwelling is the principal elevation is supported by the pre-application correspondence with the Duty Officer and the Officer's Report on the earlier application [No 46647/APP/2016/2663]. It said: "*...the principal elevation is eastern facing to replicate the adjoining terraced properties...*". Whilst the properties at Nos 1 and 2 can be distinguished from No 3 insofar as they contain the entrance doors and main windows of the respective dwellings, they are part of a consistent pattern of development in which these dwellings face onto the highway. That is also evident along the remainder of the dwellings along the frontage of Hughenden Gardens. Whilst I appreciate that No 3 is the corner plot I have shown it is by no means unique.
13. For the reasons given I conclude on the balance of probabilities that the outbuilding would not be sited forward of a wall forming the principal elevation of the original dwellinghouse. In these circumstances it would be permitted development by virtue of Article 3 and Class E of Part 1 to Schedule 2 of the GPDO.

Other matters

14. I have noted the Appellant's claim that if the principal elevation was held to be that to the south, it would allow an outbuilding or extension to be constructed to the east, which would: "*...be an awful addition to the street scene*". In the context of the visibility of that frontage when seen from Yeading Lane it is hard to disagree with that assessment. However this cannot be determinative in a case such as this where the planning merits do not fall to be considered.

Conclusion

15. For the above reasons, having regard to all other matters raised, I conclude, on the evidence now available, that the Council's refusal to grant an LDC for a single storey outbuilding for use as a garage for classic cars at 3 Owen Road, Hayes UB4 9JY was not well founded. The appeal will succeed and I shall exercise the powers transferred to me in section 195 (2) of the Act.

Pete Drew

INSPECTOR

² Whilst the existing site plan contains the same label on the rear area that is plainly wrong, as is evident from my site inspection and the existing ground floor plan.

³ This conclusion is supported by the dashed lines on the existing ground floor plan, which suggests it did not exist on the ground.



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 30 September 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Act, for the following reason:

1. The proposed building operations are permitted development by virtue of Article 3 and Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015.

Signed

Pete Drew

Inspector

Date: 9 June 2017

Reference: APP/R5510/X/17/3167900

First Schedule

Single storey outbuilding for use as a garage for classic cars.

Second Schedule

3 Owen Road, Hayes UB4 9JY

NOTES

This certificate is issued solely for the purpose of Section 192 of the Act.

It certifies that the operation 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, was not liable to enforcement action, under section 172 of the Act, on that date.

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.

The effect of the certificate is subject to the provisions in section 192(4) of the Act, which state that the lawfulness of a specified operation is only conclusively presumed where there has been no material change, before 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: 9 June 2017

by **Pete Drew BSc (Hons), Dip TP (Dist) MRTPI**

3 Owen Road, Hayes UB4 9JY

Reference: APP/R5510/X/17/3167900

Scale: Do not scale as original plan has been scanned which might cause variations.

Streetwise™



SITE LOCATION PLAN
AREA 2 HA
SCALE: 1:1250 on A4
CENTRE COORDINATES: 511259 , 182665



Supplied by Streetwise Maps Ltd
www.streetwise.net
Licence No: 100047474
13:57:44 09/07/2016