The Planning Inspectorate

Appeal Decision

Site visit made on 31 July 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

Decision date: 6th September 2017

Appeal Ref: APP/K3605/D/17/3175819
Rivermede, Burhill Road, Hersham, Walton-on-Thames, Surrey KT12 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mrs L Signolet against the decision of Elmbridge Borough Council.
- The application Ref 2017/0883, dated 16 March 2017, was refused by notice dated 25 April 2017.
- The development proposed is the erection of a single storey rear extension.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposal would comply with the relevant criteria of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO); and if so, whether prior approval would be required.

Reasons

3. Class A of Part 1, Schedule 2 of the GPDO allows permitted development rights for the 'enlargement, improvement or other alteration of a dwellinghouse'. For detached dwellings, Paragraph A.1(g) states that development is permitted by Class A, if the enlarged part of the dwellinghouse would have a single storey and extend beyond the rear wall of the original dwellinghouse by no more than 8 metres, or exceed 4 metres in height. The proposed rear extension would be single storey, 8m long and would be less than 4m high.

4. Paragraph A.1 (j) states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would exceed 4m in height, have more than a single storey or have a width of greater than half the width of the original dwellinghouse.

5. The current and original house is 'T' shaped, with the crossbar of the T forming the front elevation and the stem of the T being a rear projection. The proposal seeks to demolish the stem and build a full width rear extension, thereby creating a roughly rectangular shape in plan form. The Council are of the view that the proposal would extend beyond a wall forming part of the side elevation of the original house (the stem sides), and that the extension would have a width greater than half the width of the original dwellinghouse.

6. Under s55(1) and (1A) of the Town and Country Planning Act 1990 (the Act), demolition is 'development' [which requires planning permission]. Under s55(2)(g) of the Act and Article 3(9) of the GPDO, the demolition of a building is not permitted development, except in Part 11, but 'building' does not include 'part of a building'. Therefore a scheme which, as in this case, requires the demolition of part of a building may not constitute development.

7. I consider in this case that the demolition of the existing rear projection as part of the overall proposal would constitute permitted development. However, this would not alter the extent of the 'original' dwellinghouse, which is defined in Article 2 of the GPDO as the building as it was in 1948, or if built later, as it was built. Even though therefore the demolition would remove the rear projection physically, for the purposes of the Order the defined original dwellinghouse would remain as a 'T' shape, with walls forming side elevations along the sides of the 'stem', and the proposal would extend beyond such walls.

8. I note that the submitted appeal decisions take a contrary view. Some of these refer to the words of the GPDO which refer to a wall 'forming' a side elevation of the original house, considering that the use of the present tense indicates that if the wall were to have been demolished this would no longer apply. However, in this case, the rear projection exists, and forms the side elevations of the rear offshoot. Furthermore I consider that the word 'forming' cannot simply apply to the present only, as it being applied to the original dwellinghouse, which is defined by reference to a point in the past (1948 or when built).

9. It remains to be considered therefore whether the width of the proposal would be wider than greater than half the width of the original dwellinghouse. The width of the dwellinghouse is stated to be some 11m, with each extension measuring around 3.5-3.6m wide. Individually therefore they are not wider than half the width of the house, but cumulatively they are. Given that both would be built concurrently as part of the same scheme I consider that they would constitute as a whole an enlargement of the house with a width greater than half the width of the original dwellinghouse, and would not therefore comply with paragraph A.1(j). The 2016 appeal referred to was a side extension with a minor rear element, and hence was a different situation.

Conclusion

10. I therefore conclude that the proposal would not comply with the relevant criteria of the GPDO. As this is the case it is not necessary for me to consider whether prior approval would be required. Accordingly, for the reasons given above I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR