



Appeal Decisions

Site visits made on 8 August 2017

by D R Cullingford BA MPhil MRTPI

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

Decision date: 8 September 2017

Appeals Ref: APP/P5870/W/17/3170470

55 Brinkley Road, Worcester Park, Sutton, KT4 8JE

- This appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant an approval required under Schedule 2, Part 3, Class A of the Town and Country Planning (General Permitted Development Order)(England) 2015 (as amended).
 - The appeal is by Mr R Viswanathan against the decision of the Sutton London Borough Council.
 - The application (ref: A2016/76149 and dated 21 December 2016 was refused by notice dated 6 February 2017.
 - The development is described as requiring prior approval for a 'single storey rear extension projecting from the rear of the original house by 6m'.
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Decision

1. I dismiss this appeal.

Main issue

2. From what I have read and seen, I consider that this appeal turns on whether the proposal would accord with the requirements imposed under Schedule 2, Part 3, Class A of the Order, particularly in relation to the provisions of Class A.1 (g), (i) and (j).

Reasons

3. The appeal property is a modest semi-detached dwelling in a street of similar houses, where many front gardens have been paved to provide car parking spaces. The white render and limited height of most dwellings impart a surprisingly open aspect to the street.
 4. The scheme entails the erection of a rear extension projecting 6m from the back wall of the appeal property. It would be about 3.5m high beside the rear elevation with an almost flat roof projecting about 3.5m before sloping more noticeably to a height of 2.8m at the rear patio doors. A couple of 'velux' windows would project above the roof profile to touch 3.9m or so. The extension would be the same width as the existing house so that it would almost be on the boundary with the adjoining dwelling (at No.53 - where there is an existing flat roofed extension) and barely 1m from the adjacent property (at No.57).
 5. Under the provisions of Class A.1 (g) of the Order a single storey rear extension projecting up to 6m from the back wall of the original dwelling would be 'permitted development' (at least until 30 May 2019), provided that it did not exceed 4m in height. The proposed extension would meet those requirements.
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6. But, it must also meet the other limitations on the freedoms imposed by the Order. First, if the eaves of the extension (the enlarged part of the dwelling) exceed 3m in height, then the structure should not be within 2m of any property boundary (the curtilage of the dwelling); the extension intended here would be much closer to the property boundaries and the eaves would be over 3m in height. The scheme would thus fail to comply with the limitations imposed by Class A.1 (i) of the Order and, consequently, it is not 'permitted development'.
7. Second, if the extension projects beyond a 'wall forming a side elevation' of the original house, then it should be no more than half the width of that dwelling (Class A.1 (j)). This extension would project beyond both sides of a minimally projecting flue or chimney built within the rear wall and the Council consider that it would wrap around that structure projecting beyond it on both sides. Hence, being well over half the width of the house, the Council consider that it would fail to comply with a further limitation of the Order.
8. They have grounds for that assertion because the 'guidance' indicates that a side wall is any wall that is not a front or rear wall. However, although this chimney is properly evident in the elevational drawings, it forms such a small part of the side elevation at the appeal property, and is set so far back from either side wall of the dwelling, as to be both almost unnoticeable and visually divorced from any wall that could naturally be described as part of a side elevation. That is the test used in the Order; the Order refers to a 'wall forming a side elevation', rather than to a structure barely noticeable as part of such an elevation or even a structure that, being no more than a single brick long, is barely a wall at all. It is, in reality, just a protuberance projecting marginally from the rear elevation of the dwelling. Nothing in the 'guidance' reflects that situation. It does indicate that a side wall may be formed by more than 1 wall and it gives examples where a side elevation may contain 3 walls, some considerably shorter than others. But it does not actually say that a 'wall forming a side elevation' might be 'very short' and, even if it did, it would entail the logic of a Humpty-Dumpty to describe this projection in those terms; it would simply not be sensible. So, it seems to me that the intention of the Order, as illustrated by the 'guidance' is to refer to structures that could reasonably be perceived as forming a side elevation of the original dwelling or, perhaps, as being a natural part of such an elevation. In my view, a very modest projection of barely 0.3m containing part of a flue or chimney would neither be sufficient, nor significant enough, to qualify as a 'wall forming a side elevation'. Hence, I consider that the proposed extension would not necessarily fall foul of this limitation.
9. I have considered all the other matters raised. The Order is prescriptive. Failure to comply with any part of it means that the scheme is not permitted development and prior approval cannot be granted. Moreover, the limitations on the freedoms bestowed by the Order relate to the 'original dwelling'. So, the fact that the projecting part of this chimney has now been removed cannot affect what once constituted the 'original dwelling'. Hence, I find neither that nor anything else sufficiently compelling to alter my conclusion that this appeal should be dismissed.

David Cullingford
INSPECTOR