
Appeal Decision

Site visit made on 14 July 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/K3605/X/19/3243077

17 Hillmont Road, Esher KT10 9BA

- 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 Mark Wilkingson against the decision of Elmbridge Borough Council.
- The application Ref 2019/2865, dated 1 September 2019, was refused by notice dated 4 December 2019.
- 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 the construction of a rear facing dormer.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The description of development suggests that the development proposed comprises the construction of a rear facing dormer. However, the plans supplied with the application show the extension of the roof from a hipped roof to a gable, with a flat roofed dormer to the rear. The Council has assessed the development on that basis and so shall I.
2. Where an LDC is sought the burden of proving relevant facts rests with the appellants and the test of the evidence is on the balance of probability.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

4. The existing dwelling comprises a semi-detached house with garage attached to the side. Two bedrooms extend partially over the garage and both have pitched roofs that link into the main hipped roof of the house; that at the front extends close to the boundary with the neighbouring property. The Council indicate that these are previous extensions, so now existing enlargements, and I have not been provided with evidence to dispute that.
5. The proposal would convert the hipped roof to a gable end, with a flat roofed dormer to the rear. Although it would not protrude past the original side of the dwelling, the proposed roof extension would join to the existing enlargements.

6. Paragraph (ja) of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) requires that any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) must not exceed the limits set out in other paragraphs, including (i) and (j). Paragraphs (i) and (j) require that extensions must not be within 2 metres of the boundary of the curtilage of the dwellinghouse if the height of the eaves of the enlarged part would exceed 3 metres, and a side extension must not have more than a single storey, or exceed 4 metres in height.
7. Consequently, for the purposes of the GPDO the proposal includes the existing enlargements and needs to be considered against paragraphs (i) and (j). As a result, the proposal would include a side extension of two storeys and over 4 metres in height. Part of the proposal would be within 2 metres of the boundary of the curtilage of the dwellinghouse and would be over 3 metres in height.
8. I understand that what is currently proposed, excluding existing enlargements, would be within the size allowance within Class B, Part 1, Schedule 2 of the GPDO. I note that there have been a lot of hip to gable conversions, including flat roofed dormers, nationally. However, I need to consider the proposals in front of me in accordance with the GPDO as a whole.
9. Taking account of all the above, the proposed half hipped roof and dormer would not comply with the requirements of paragraphs A.1 (i) and (j), Class A, Part 1, Schedule 2 of the GPDO.
10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a rear facing dormer was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

11. The appeal is dismissed.

AJ Steen

INSPECTOR