



Appeal Decision

Site visit made on 17 November 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal Ref: APP/U2235/X/20/3255437

Ringles Gate, Grigg Lane, Headcorn TN27 9LY

- 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 Douglas Hodson against the decision of Maidstone Borough Council.
- The application Ref 19/50673/LAWPRO, dated 13 November 2019, was refused by notice dated 13 January 2020.
- 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 a single storey side extension and single storey front porch extension.

Summary of Decision: The appeal is dismissed.

Main Issue

1. The main issue in this appeal is whether it has been shown that the proposed extensions would be granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Article 3, Schedule 2, Part 1.

Reasons

2. The appeal concerns a detached single storey dwelling. The dwelling is on the corner of the junction between Grigg Lane and a private road accessing horticultural and other commercial uses. The proposed single storey extension would be on the north-east elevation of the dwelling. The proposed porch would be on the dwelling's north-west elevation. It is for the appellant to show that an LDC should be granted for the proposed extensions, the relevant test of the evidence being on the balance of probability.
3. The GPDO Article 3, Schedule 2, Part 1, Class A permits extensions to a dwelling, subject to the limitations regarding the size, location and nature of the development at paragraphs A.1 and A.2, together with the conditions at paragraphs A.3 and A.4. Under paragraph A.1 (e)(i), the development must not extend beyond a wall which forms the principal elevation of the original dwelling. Under paragraph A.1 (e)(ii), the development must not extend beyond a wall which fronts a highway and forms a side elevation of the original dwelling. Class D of Part 1 permits erection of a porch outside any external door of a dwelling subject to the limitations at paragraph D.1, which mainly concern the porch size and location.

4. What is meant by the term 'principal elevation' is not defined in the GPDO. However, according to the Government's Technical Guidance (TG)¹ in most cases it will be the part of the dwelling which fronts (directly or at an angle) the main highway serving the dwelling (the main highway being the one that sets the postcode for the dwelling concerned) and it would usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the dwelling. Usually, but not exclusively, the principal elevation would be what is understood to be the front of the dwelling.
5. The dwelling is of restrained design, with little architectural detail of note. The north-east elevation is orientated towards the private road and contains the dwelling's main entrance. I understand that postal deliveries are made to this entrance, via a pedestrian path from the private road. However, a main entrance is not inevitably on a principal elevation-it could equally be in a side or rear elevation. Therefore, this factor alone is not conclusive. The inset porch containing the main pedestrian entrance door is not a readily noticeable feature. The main feature of this elevation is a projecting gable containing a two light window. As a result, there is little in the appearance of the north-east elevation to suggest that it should be regarded as containing the main architectural features or that it is what would usually be understood as the front of the dwelling. Moreover, in 2012 in an LDC application for a proposed detached garage/store, the Council concluded that this elevation was not the principal elevation of the dwelling². I was not made aware of any material change in circumstances since that decision which might indicate why I should not reach a similar conclusion in this appeal. Consequently, I am not persuaded that this is the principal elevation of the dwelling.
6. The north-west elevation of the dwelling is orientated towards Grigg Lane. The north-west elevation contains a substantial projecting gable, within which there is a large window. A window of similar size, projecting slightly forward of the wall not unlike a bay window, is alongside. There are no windows of comparable size or prominence on the other elevations. The gable and the windows act to break up the built form and provide the key elements of visual interest in this elevation. The arrangement of the above features also creates an appreciable sense of formality in terms of the architectural composition, contributing substantially to the overall appearance of the dwelling. The detail in this arrangement contrasts markedly with the simpler elevational treatment of the north-east elevation. The north-west elevation is also substantially longer than the north-east elevation and whilst it is not always the case, a longer elevation can often contain more significant architectural features. As the other elevations have a more 'secondary' appearance, with smaller windows and little by way of articulation in the built form or architectural detail, they do not compare with the north-west elevation. Therefore, it is this elevation that in my view contains the main architectural features of the dwelling.
7. I acknowledge that the north-west elevation does not contain the main entrance to the dwelling and there is no direct access to it from Grigg Lane. There is a high hedge on the boundary with Grigg Lane, which is likely to limit public views of the north-west elevation, particularly during summer months. The area between the north-west elevation and Grigg Lane is not

¹ "Permitted development rights for householders-Technical Guidance" MHCLG September 2019.

² Council Ref: 11/1990.

distinguishable from other parts of the dwelling's private garden. However, I regard the architectural treatment of the north-west elevation as being of greater significance than these factors. Moreover, it is Grigg Lane which provides the postal address for the dwelling.

8. For the reasons set out above, on the evidence available, having regard to the TG and on the balance of probability, I conclude that the north-west elevation is the dwelling's principal elevation. This is the elevation that I would understand to be the front of the dwelling, on account of its architectural features compared with the other elevations and having regard to its orientation to Grigg Lane. It follows that the extension would not be beyond the wall forming the principal elevation of the original dwelling.
9. Nevertheless, from the above it must also follow that the south-east elevation is the rear elevation of the dwelling and that the north-east elevation is a side elevation. For the purposes of the GPDO Part 1, a 'highway' is not limited to a public road and includes unadopted streets and private ways. As a result, the private road has to be regarded as a highway, even though there is no public right of access and gates restrict its use. The extension would be beyond a wall which fronts the highway and forms a side elevation of the original dwelling, not meeting the limitation at paragraph A.1 (e)(ii) of Class A. Therefore, whilst the other limitations in paragraphs A.1 and A.2 together with the conditions in paragraph A.3 to A.4 would either be met or are not relevant, the extension would not be permitted by Class A.
10. Turning to the porch, the TG advises that where an elevation has more than one wall facing in the same direction, all such walls will form the principal elevation and the line for determining what constitutes 'extends beyond a wall' will follow those walls. The porch would be aligned with the gable, extending beyond the line of part of the wall forming the principal elevation and not meeting the limitation at paragraph A.1 (e)(i). Accordingly, the porch would not be permitted by Class A. Furthermore, the porch would not be permitted by Class D. There is no external door in the dwelling's north-west elevation. Also, the height of the porch would exceed three metres above ground level and would not meet the limitation at paragraph D.1 (c).
11. Therefore, on the balance of probability the appellant has failed to show that the proposed extensions would be permitted by Article 3, Schedule 2, Part 1 of the GPDO and in the absence of a grant of express planning permission, they would not be lawful for planning purposes.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a single storey side extension and a single storey front porch extension was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me under section 195(3) of the 1990 Act as amended.

Formal Decision

13. The appeal is dismissed.

Stephen Hawkins INSPECTOR

