



Appeal Decision

Site visit made on 10 November 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Appeal Ref: APP/M3645/X/20/3253382

War Coppice Lodge, War Coppice Road, Caterham CR3 6EQ

- 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 and Mrs K Whelan against the decision of Tandridge District Council.
- The application Ref TA2020/50, dated 6 January 2020, was refused by notice dated 1 April 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 described on the application form as *"The proposed project is a two storey rear alteration to the original dwelling house to provide more living space for the occupants. Despite this being a two storey extension, it is a minor alteration which only extends to a maximum of three metres away from the house and is designed to be contiguous to the original house in material and form without being overbearing or unsightly from the highway."*

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. The description of the proposal in the banner heading above is taken from the application form. In the interests of precision, I shall deal with the appeal on the basis of the proposal being for erection of a two storey rear extension. That was the description used on the Council's decision notice.

Main Issue

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

Reasons

3. The onus is on the appellants to show that an LDC should be granted for the proposal, the relevant test of the evidence being on the balance of probability.
4. The appeal site contains a detached two storey dwelling. The dwelling is likely to have originated in the Victorian period as an outbuilding in the grounds of a substantial country house (War Coppice House). The dwelling was converted to its current use in the late 1960s and has been enlarged over time. The proposal entails enlarging the dwelling at two storeys beyond the south elevation wall.

5. The GPDO Article 3, Schedule 2, Part 1, Class A grants planning permission for the enlargement, improvement or other alteration of a dwelling. This is subject to a number of 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), development is not permitted where the enlargement would extend beyond a wall which forms the principal elevation of the original dwelling.
6. 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.
7. The south elevation of the dwelling faces over part of the private garden, rather than towards War Coppice Road (the road). The south elevation is largely visible only from the dwelling's private garden and part of the adjacent private drive leading to War Coppice House. Even so, this elevation incorporates a richness of architectural detailing redolent of the dwelling's Victorian origins. There is a well-ordered arrangement of window openings, with decorative vertical clay tile hanging at first floor level. The roof treatment contains three gables with decorative barge boards, the roof being covered with clay tiles, featuring decorative tiles along the ridge line and exposed rafter feet.
8. The arrangement of architectural features on the south elevation contributes significantly to the architectural character of the dwelling and provides an appreciable sense of unity and cohesion in terms of its overall appearance. Furthermore, the arrangement of openings in this elevation and the architectural detailing is highly likely to reflect the dwelling's historic function and relationship with War Coppice House. Therefore, to my mind the south elevation contains the main architectural features of the dwelling. Although the main entrance to the dwelling is not among the architectural features present on the south elevation, that does not necessarily weigh against the above findings. In any event, the appellants did not dispute that for most of the time since its conversion and until relatively recently, the south elevation had contained the main entrance, set within an open-sided porch and accessed from the adjacent drive. The TG recognises that there will be cases where the principal elevation is not the one which fronts the main highway. As a result, when taken together the above factors suggest that the south elevation should be regarded as the principal elevation of the original dwelling.
9. The appellants claimed that the north elevation of the dwelling was its principal elevation. This elevation faces the road. A vehicle access from the road leads to a parking and turning area adjacent to the north elevation. I am given to understand that the road sets the postcode for the dwelling. Unlike the south elevation, the north elevation is visible from the road and the area it faces over is not private garden. The north elevation is given further visual emphasis

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

from the road by rising ground levels. Also, the main entrance to the dwelling is in the north elevation.

10. Be that as it may, the north elevation is made up of a number of architectural elements of differing size, design and materials and has evolved significantly over time as a result of the dwelling being enlarged. There is a mix of external materials, differing roof lines and profiles together with a variety in terms of the size and style of elevational openings. Moreover, whilst some of the architectural features of the dwelling, including clay tile hanging, eaves, barge board and ridge details are visible, the north elevation lacks the architectural coherence or decorative qualities of the south elevation and has a rather functional, secondary appearance. Therefore, the north elevation does not exhibit a strong sense of identity and formality in terms of its architectural composition. The limited presence on this elevation of architectural features that contribute to the overall character of the dwelling means it cannot be regarded as containing main architectural features. Such factors are not consistent with this being the principal elevation. Formation of the main entrance to the dwelling in this elevation and access from the road are relatively recent works in terms of the dwelling's evolution. In my view, the dwelling's historic function and relationship with War Coppice House is of greater significance in terms of what should be regarded as the principal elevation than the relationship to the road. For the above reasons, I am not persuaded that the north elevation is the principal elevation of the original dwelling.
11. The appellants referred to a recent appeal decision in the Borough in respect of an LDC for proposed works including enlargement of a dwelling². The Inspector's findings on what amounted to the principal elevation of the dwelling were based on the individual facts of that case. As reaching a decision on such matters is essentially one of judgment and is always likely to be fact-specific, cases which might at first sight seem alike may well have different outcomes. Therefore, that decision does not lend weight to the appellants' case.
12. The Council supplied copies of drawings which had accompanied planning applications for enlarging the dwelling between 2003 and 2008, made by the appellants. On all of the drawings supplied, where there is reference to the 'front' elevation it is the south elevation that is so identified, whereas the north elevation is described as the 'rear' elevation. The drawings are likely to indicate how the respective elevations of the dwelling were perceived by the appellants at the time those applications were made. As a result, there was nothing in those extracts from the planning history that would affect my findings set out above.
13. Accordingly, based on the available evidence I conclude that the south elevation is the principal elevation of the original dwelling. It follows that the proposal to extend beyond that wall would be in breach of paragraph A.1 (e)(i) of Class A. Whilst the other limitations in paragraph A.1 together with the limitations in paragraph A.2 and conditions in paragraph A.3 to A.4 would either be met or are not relevant, the proposal cannot be permitted by Class A and express planning permission is required.

² Appeal Ref: APP/M3645/X/18/3211927.

14. Therefore, on the balance of probability the appellants have failed to show that the proposal would be granted planning permission by the GPDO Article 3, Schedule 2, Part 1, Class A and it would not be lawful for planning purposes.

Conclusion

15. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the erection of a two storey rear extension at the site 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

16. The appeal is dismissed.

Stephen Hawkins

INSPECTOR