
Appeal Decision

Site visit made on 3 February 2022

by R J Jackson BA MPhil DMS MRTPI MCM

an Inspector appointed by the Secretary of State

Decision date: 11th February 2022

Appeal Ref: APP/Z5630/D/21/3273586

6 Hillside Road, Surbiton KT5 8DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Sophie Evans against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref 21/00713/PAEXT, dated 7 March 2021, was refused by notice dated 19 April 2021.
 - The development proposed is removal of existing conservatory/extension, erection of new single storey rear extension.
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for removal of existing conservatory/extension, erection of new single storey rear extension at 6 Hillside Road, Surbiton KT5 8DR in accordance with the application 21/00713/PAEXT made on 7 March 2021, and the details submitted with it including plan nos: Ordnance Survey Extract, Location Plan, DN 1, DN 2, DN 3, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. In certain circumstances, where the proposals exceed certain limits but is less than others, the 'prior approval' of the details is required of the local planning authority. Where an application is made for such a determination the local planning authority may refuse the application where it considers that the proposed development does not comply with the relevant criteria so as to be permitted development. That occurred in this case.
4. At the site visit I noted that building operations had taken and were taking place which differed from those shown on the application drawings. This decision is based solely on the application drawings and as this determination is not for a Certificate of Lawful Development or Use under either Section 191 or 192 of the Town and Country Planning Act 1990 (as amended) cannot conclude whether the works in combination or as a replacement would be lawful.

Main Issue

5. The main issue is whether the proposal meets the criteria so as to be permitted development as set out in Article 3, Schedule 2, Part 1, Class A of the GPDO.

Reasons

6. The appeal property is a semi-detached dwelling at the northern end of a turning area. The proposal is for an extension to the north-northeast of the property. As shown on the application drawings it would replace an existing conservatory style extension but would extend further into the garden. It would be single storey, with the north-northwest elevation following the line of the boundary which is not 'square' with the main orientation of the property
7. The Council's report on the application deals with all of the criteria which a proposal needs to meet to be permitted development on a form with the answers given in a "Yes/No/Not Applicable" format. The only criterion said to be breached is sub-paragraph (j). This states:

the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

- (i) exceed 4 metres in height,
- (ii) have more than a single storey, or
- (iii) have a width greater than half the width of the original dwellinghouse.

If the proposal breaches the criteria in this sub-paragraph then the development would not be permitted development under the GDPO.

8. No explanation was given for why the Council considered that the proposed development does not meet this sub-paragraph. I have no reason to believe that the proposal would breach any other of the relevant criteria.
9. Although it cannot be determinative, in the sense it is not law but guidance, the former Ministry of Housing, Communities and Local Government has published technical guidance entitled "Permitted development rights for householders" (the Technical Guidance). This document explains that it "gives an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances".
10. In looking at sub-paragraph (j) the Technical Guidance explains that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. The diagram at the bottom of page 22 makes clear that where a property 'steps' outwards then more than one element can be a side wall.
11. On the appeal property, the front and rear elevations are clear with the front being that facing the turning area of Hillside Close and the rear being that opposite. The single side elevation being that facing the path beyond the turning area to the northeast. On this side elevation the dwelling steps out slightly just over half-way along the length of the property. Such a feature occurs on a number of other properties in Hillside Road. I am therefore satisfied that the wider element forms part of the original dwelling.
12. The proposal would continue this line to the rear and would not extend further to the side. Consequently, the proposal would not extend beyond a wall

forming a side elevation of the original dwellinghouse. Furthermore, the height is marked as "3000", which will be millimetres, and would only have a single storey. While the extension would have a width greater than half the width of the original dwellinghouse, it is only necessary for any extension to meet one of the three enumerated criteria. The proposal would therefore meet the criteria to be permitted development.

13. The Council has not asserted that the proposal should be refused on the basis of any impact on the amenity of any adjoining premises.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval is not required.

RJ Jackson

INSPECTOR