



Appeal Decision

Site visit made on 29 November 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2022

Appeal Ref: APP/Y3615/W/22/3290553

Wheelspin, Salt Box Road, Worplesdon GU3 3TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Jonathan Findeis against the decision of Guildford Borough Council.
 - The application Ref 21/W/00114, dated 28 September 2021, was refused by notice dated 22 November 2021.
 - The development proposed is described on the application form as: '8m single storey rear extension and 2nd story on existing original building. All to be compliant with Permitted development under TOWN AND COUNTRY PLANNING, ENGLAND The Town and Country Planning (General Permitted Development) (England) Order 2015'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3(1) and Class A, Part 1 of Schedule 2 of the GPDO authorise the enlargement of a dwellinghouse subject to conditions, limitations and restrictions. Paragraph A.1 of Class A sets out the relevant limitations and restrictions which would prevent development from being 'permitted development' under that Class.
3. Paragraph A.1(g)(i) of Class A states that development will not be permitted if the enlarged part of the dwellinghouse would extend beyond the rear wall of the original dwellinghouse by more than 8 metres, in the case of a detached dwellinghouse, amongst other things. In addition, Paragraph A.1(j)(iii) of Class A states that development will not be permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse, amongst other things.
4. Paragraphs A.3 and A.4 of Class A set out the conditions applicable to the proposed development. Paragraph A.4(2) explains that before beginning the proposed development, information must be provided to the local planning authority comprising an application for prior approval. Paragraph A.4(3) states the local planning authority may refuse such an application where, in the opinion of the authority the proposed development does not comply with, or insufficient information has been provided to enable the authority to establish whether the proposed development complies with, the conditions, limitations or restrictions applicable to the proposed development.

Main Issue

5. Taking the above into account, the main issue is whether sufficient information has been provided to allow it to be established whether the proposal complies with the conditions, limitations or restrictions applicable to the proposed development, with particular regard to whether it would extend beyond the rear wall of the original dwellinghouse by more than 8 metres and whether it would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse.

Reasons

6. The appeal dwelling is a detached bungalow with a low hipped roof with a short ridge and flat roof sections to the north (side) and east (rear) elevations. The appellant has provided plans which are claimed to show the original ground floor of the appeal dwelling alongside the existing and proposed ground floors¹.
7. In relation to a building which is not Crown land, the term 'original' is defined at Article 2.(1) of the GPDO as meaning the building as it existed on 1 July 1948, or, if it was built on or after 1 July 1948, then as so built. The appeal building is not Crown land. I have not been provided with any information confirming when the appeal dwelling was built, but the main parties have referred to a building shown in the approximate position of the appeal dwelling on historic maps dating from pre-1948. It therefore appears that the appeal dwelling was built before 1 July 1948, and it is necessary to identify the positions of its rear and side walls as it existed on that date. The appeal building as it existed on 1 July 1948 was the original building.
8. Based on the existing form of the appeal dwelling, it appears likely, but not certain, that it would have been constructed with a roughly square shaped footprint under a hipped roof initially, and the flat roofed extensions were subsequently added to the north and east elevations. I noted very minor changes in the brickwork and window surrounds of the hipped roof part of the building compared to the flat roofed parts. Some of those extensions or other previous extensions may have taken place before 1 July 1948, in which case they would form part of the original building.
9. The main parties have referred to a planning permission² granted by the Council for works to the appeal dwelling described as 'alterations and addition at rear', dating from 1978 ('the 1978 PP'). The appellant states that no planning applications were submitted in relation to the appeal site between 1 July 1948 and the 1978 PP. It is therefore suggested that the plans³ that form part of the 1978 PP ('the 1978 Plans') are the only reliable evidence as to what comprises the original building.
10. The appellant has suggested that because planning permission would have been required for any development after 1 July 1948, any works carried out to the appeal dwelling after that date would have been noticed by the Council when it was assessing the application for the 1978 PP. It is claimed that as no

¹ 'Drw: 003' dated 10 October 2021

² The Council's ref: 78P 0489

³ Document titled: 'Proposed Rebuilding and Extension at Wheelspin, Mount Pleasant, Worpleston, Guildford - - for Mr. B. G. Gonzalves'

unauthorised extensions were identified at that time, the existing walls shown on the 1978 Plans were those of the original building.

11. Although it is possible that the existing walls on the 1978 Plans were those of the original building, it is also reasonably possible that some of those parts of the appeal dwelling were constructed after 1 July 1948 without planning permission. If this was the case, they would not have comprised part of the original building.
12. The Council's officer report refers to historic maps which are claimed to indicate that the appeal dwelling had a 'cube floor area with a rear projection' at some point previously. This is shown in the historic map dated 1900 to 1949⁴. It is claimed that this remained the case in a map dated 1961 to 1969⁵, but with a larger northern side projection. An historic site plan which formed part of a 1966 planning application⁶ to erect a dwelling to the north of the appeal dwelling has also been presented as part of the Council's appeal submissions. These historic maps are referred to by the Council when they also suggest a side extension on the north elevation of the appeal dwelling was erected after 1 July 1948, as the footprint of the appeal dwelling appears to be wider in the map dated 1961 to 1969. This is not shown in the site plan dated 1966.
13. According to the Council, these historic maps indicate the original building comprised a roughly square shaped footprint with a rear projection, creating stepped rear and side elevations. If this was the case, the proposed development would extend beyond part of that stepped rear elevation by more than 8 metres and the width of the proposed development would possibly exceed half the width of the original building.
14. The appellant has referred to the historic maps as unreliable, drawing upon the inconsistencies between these and other historic maps to illustrate this point. The accuracy of historic maps of the scales presented will often be unreliable for precise measurements of buildings because the intention of those maps was partly to provide only general, approximate information about the positions and footprints of buildings. I consider it likely that the site plan which formed part of the 1966 planning application provides a more accurate representation of the footprint of the appeal building at that time because it was drawn by a chartered architect specifically to identify the appeal site and land adjoining it. Even if the 1966 planning application was refused for an unstated reason, this would not lead me to find that site plan entirely unreliable.
15. Notwithstanding the possible inaccuracies in measurements and the lack of precise dates, the historic maps presented suggest the footprint of the appeal dwelling changed at various points before the 1978 Plans were drawn, including between 1966 and 1978. Although I would be reluctant to rely on measurements taken from those historic maps due to their scales and possible inaccuracies, it appears likely that a stepped rear and northern side elevation existed in the 1960s, but it is not clear whether that was the case on 1 July 1948.
16. The footprint of the appeal dwelling shown in the 1978 Plans is inconsistent with the footprints shown on the earlier historic maps. The historic maps do not

⁴ Identified as 'Map A' in the appellant's submissions

⁵ Identified as 'Map B' in the appellant's submissions

⁶ The Council's ref: GU/R 14572

identify the positions of the rear and side walls of the original building, but they do undermine the appellant's claims that the 1978 Plans show the appeal dwelling as it existed on 1 July 1948.

17. I am not convinced by the appellant's suggestion that any unauthorised extensions made to the appeal dwelling between 1 July 1948 and 1978 would have been identified and noted by the Council when the 1978 PP was being considered. This is because the extent of time between 1 July 1948 and the 1978 PP means that any unauthorised development could have already been of significant age by that point and not obvious or expedient to investigate. It is also not clear whether the Council fully inspected the appeal dwelling prior to granting the 1978 PP, or what level of detail was considered at that time.
18. I have been referred to part 11b of the application form of the 1978 PP. In response to the question 'what buildings are to be demolished?', the application form states: 'existing rooms at rear', comprising 380 square feet of gross floor area. There is no evidence which confirms this part of the application form was completed with reference to parts of the original building only. It appears more likely to me that this simply referred to the parts of the building existing at that time, which were proposed to be demolished. For the reasons set out above, it is not clear whether those parts of the building existed on 1 July 1948.
19. The Council's decision to grant the 1978 PP did not therefore confirm the existing building at that time was the original building. The evidence before me does not demonstrate on the balance of probabilities that the 1978 Plans show the appeal dwelling as it existed on 1 July 1948. The evidence before me indicates that it is reasonably likely that parts of the appeal dwelling shown as 'existing' in the 1978 Plans may not have existed on 1 July 1948.
20. Taking all of the above into account, it is not clear where the original side and rear walls of the appeal dwelling are/were located, and further investigation and details are needed to clarify these points. Even though the appellant has not sought a certificate of lawfulness, the onus falls on them to provide sufficient information to enable me to establish whether the proposal would accord with the provisions of the GPDO. Based on the information available, it appears that the proposed development may extend beyond the rear wall of the original dwellinghouse by more than 8 metres and it may extend beyond a wall forming a side elevation of the original dwellinghouse and may have a width greater than half the width of the original dwellinghouse.

Conclusion

21. The appellant has not provided sufficient information to enable me to establish whether the proposal would comply with the conditions, limitations or restrictions set out in Class A. The appeal is therefore dismissed.

L Douglas

INSPECTOR