

Appeal Decision

Site visit made on 22 January 2020

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 6th February 2020

Appeal Ref: APP/G5750/X/19/3233652

Land at 46 Rawstone Walk, Plaistow, London, E13 OHZ

- 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 lawful development certificate (LDC) by the Council of the London Borough of Newham dated 19 July 2019.
- The appeal is made by Mr Isbor Ali.
- The application ref. 19/01719/CLP was dated 18 June 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 lawful development certificate is sought is proposed demolition of rear garden wall to be replaced with a gate.

Summary of Decision: the appeal is dismissed

Preliminary Matters

1. I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellant and the test of evidence is made on the balance of probability.

Main Issue

2. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

3. The appeal concerns whether the proposed works comprise permitted development.
4. The appeal site is a dwellinghouse. At the end of its garden is a wall with a gate. The Appellant intends to open up his garden space in order to park his car and put in a gate or shutter to close it off from the rest of the garden.
5. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) provides that certain development benefits from permitted development rights meaning that an express grant of planning permission is not required. For example, Class A of Schedule 2

Part 2 of the GPDO sets out minor operations which have permitted development rights subject to certain specified conditions and limitations.

6. The application was accompanied by a document which includes photographs of the site and states the Appellant's intention to demolish the existing wall and erect a gate. But the document lacks detail. For example, it does not state the height or materials of the proposed replacement gate.
7. The Appellant says that he does not think that he needs planning permission to implement his plans. That may be correct but as his plans are not set out in any detail it is not possible to make a judgement as to whether or not the proposal has the benefit of permitted development rights. The Appellant's application is not sufficiently precise to enable a conclusion to be drawn as to whether the proposed works are lawful.
8. I have sympathy with the Appellant's desire to protect his property but in this appeal the requirement sits with him to provide sufficient detail to enable a decision as to the lawfulness of his proposal to be made. He has not provided enough information.
9. 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 demolition of rear garden wall and erection of a replacement gate at 46 Rawstone Walk, Plaistow, London, E13 OHZ was well-founded, and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

10. The appeal is dismissed.

S. Prail

Inspector