

Appeal Decision

Site visit made on 26 February 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16th March 2020

Appeal Ref: APP/Q5300/X/19/3228822
238 Haselbury Road, London N9 9TR

- The appeal is made by Maqsuda Haque under section 195 of the Town and Country Planning Act 1990 against a refusal by the Council of the London Borough of Enfield to grant a lawful development certificate.
 - The application Ref: 18/04427/CEA, dated 15 November 2018, was refused by notice dated 10 May 2019.
 - The application was made under section 192(1)(b).
 - The development for which the certificate was sought is "Detached outbuilding for use as Storage and Gym".
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Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on whether or not the development would be lawful if begun at the time of the application for the certificate. The planning merits of the development are not relevant to the appeal and there is no planning application before me.
3. The appellant maintains that the development is permitted by Article 3(1) and Schedule 2, Part 2, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. Class E authorises the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to several limitations all of which would be complied with in this instance. The plans indicate that the development would be used as a gym with a toilet and for storage; these are often considered to be incidental purposes.
4. The reason given by the Council for refusing the application is as follows: -

"The proposed development, more properly described as an enlargement of the dwelling, would extend more than 3 metres beyond the rear wall of the original dwellinghouse, as such the proposal would not comply with Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015. Furthermore, if the proposal were to be considered under Class E which the Council does not believe it should be, its

purpose would go beyond that which could reasonably be considered "incidental" to the enjoyment of the dwellinghouse, due to the impact and harm caused to the existing dwelling in terms of loss of outlook, light and access, such that given its full width and proximity to the dwelling the proposal would provide "primary" rather than "incidental" accommodation, the proposal would not comply with Class E of the Order".

5. The development would be at the rear of the house. The plans show that a structure would be erected that would be the full width of the house. Its nearest walls would match exactly the profile of the rear walls of the house. The gap between these particular walls would, throughout, be about 5cm. Where the house has an external door and an outside window at present, the structure would have a corresponding door and window about 5cm away. On its opposite side, the structure would have external doors and an external window.
6. As a matter of fact and degree, it is very obvious in these circumstances that the development would be a house extension masquerading as an outbuilding. As such, it should be dealt with, as the Council have indicated, under Class A, where it would fail to qualify as permitted development for the reason given by the Council. The development would not be lawful if begun at the time of the application for the certificate since it would not have planning permission.
7. I am satisfied that the Council's refusal of the application is well-founded in so far as it relates to Class A and the appeal has therefore been dismissed.

D.A.Hainsworth

INSPECTOR