
Appeal Decision

Site visit made on 10 March 2020

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Appeal Ref: APP/B3030/X/19/3237655

13 Pinfold Lane, Elston NG23 5PD

- 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 Wayne Eason against the decision of Newark & Sherwood District Council.
 - The application Ref 19/00127/LDC, dated 23 January 2019, was refused by notice dated 19 March 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 certificate of lawful use or development is sought is demolition of an existing timber porch and replacing it with a brick porch of a similar design.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the development in the banner heading above from section 4 of the application form that accompanied the LDC application. I have retained only the wording that described the act of development from that section of the form.
3. The Planning Practice Guidance (PPG) makes clear that an applicant is responsible for providing sufficient information to support an application. It says that in the case of an application for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a Local Planning Authority to understand exactly what is involved.
4. Both parties were given the chance to comment on whether the drawings, submitted by Mr Eason in support of his LDC application, indicate that the proposed development would include a projecting canopy supported on brackets at the front of the porch and any associated implications. I acknowledge that the appellant considers that the canopy is not essential to his proposal and could be removed from the proposed development.
5. However, the projecting canopy forms part of the proposed development of the LDC application that was considered by the Council. Moreover, it forms part of the overall porch and I do not consider that it can be treated as a separate operation. As such, I have dealt with the appeal based on the information submitted to the Council.

6. For the avoidance of doubt, the planning merits of the development are not relevant in this appeal which relates to an application for an LDC. My decision rests on the facts of the case, on relevant planning law and judicial authority. The test of evidence is made on the balance of probability.

Main Issue

7. The main issue is whether the Council's decision to refuse the grant of an LDC was well-founded.

Reasons

8. The appeal property is a large detached dwelling fronting onto Pinfold Lane. There are a number of similar design of dwellings that also front that lane. The proposal is to replace the existing porch with a replacement that would be similar in design and height to the existing one but it would have a larger footprint.
9. Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) grants planning permission for development within the curtilage of a dwellinghouse. Class D of Part 1 allows for the erection or construction of a porch outside any external door of a dwellinghouse (Class D).
10. The appellant seeks to establish that the building would be granted permission by virtue of Class D. There is no dispute between the parties that the development falls to be considered under Class D. Nor is there any dispute that the development would adhere to the limitations under Class D set out at paragraph D.1 (a), (c) and (d). I have no reason to disagree with these findings.
11. The limitation set at paragraph D.1 (b) is that the ground area (measured externally) of the structure would exceed 3 square metres. The Council's position is that as the main front door to the property is inset from the front elevation of the dwelling that the ground area of this inset area should be included as part of the ground area of the proposed porch structure. As such, the porch would then fail to comply with limitation D.1 (b).
12. If that inset area is not included the appellant's position is that the porch would have a ground area (measured externally) of 2.96 square metres and would therefore comply with limitation D.1 (b). However, the side elevation of the proposed porch shows a projecting canopy on brackets in front of a red line marked on the submitted plan. The red line appears to correlate with the calculated floor area of the porch as submitted by the appellant. The ground floor area under this projecting canopy does not therefore appear to have been included in the figure cited above.
13. The Ministry of Housing, Communities and Local Government's publication '*Permitted Development Rights for Householders*' Technical Guidance (September 2019) (TG) whilst not determinative provides a useful guide to interpretation of the GPDO. Unfortunately, it offers little assistance to readers wishing to understand more about the operation of Class D or how '*a porch*', '*the structure*' or '*ground area*' might be defined.
14. The Oxford Dictionary of English defines a porch as '*a covered shelter projecting in front of the entrance of a building*'. Thus, a porch is often

external to the walls of the main building and some are enclosed by walls, whilst some have little more than a roof canopy, supported by columns or brackets, extending from that main building. A projecting canopy at a building's entrance therefore functions as '*a covered shelter*' (or porch), regardless of whether it is self-supporting, fixed by a bracket or brackets or supported by posts or pillars inserted into the ground.

15. I consider that '*the structure*' is the built form of the porch. As the built form of the proposed porch would be that which extends forward of the existing front elevation of the building, I consider that the ground area of the structure is that which is directly related to that area forward of the main elevation. Moreover, in my judgement the term '*measured externally*' supports this as the measurements of the external parts of the porch would be those that are forward of the front elevation.
16. However, as stated above the appellant's ground area calculation does not appear to include the area under the projecting canopy. I consider that the canopy proposed in the appeal scheme falls within the definition of a porch. Moreover, it would be an integral part of the roof of the whole structure. It would create a covered area of shelter that would not otherwise be present on the front elevation of the house.
17. As such, it is reasonable to treat the main enclosed structure and the projecting canopy as forming the porch. The projecting canopy would clearly project over a ground area even though it would not touch the surface of the ground. The relevant part of the GPDO refers to the '*ground area*' and not to the '*ground surface area*'. Thus, the area underneath the projecting canopy should reasonably be included in the calculation of the ground area of the structure.
18. The evidence submitted by the appellant does not appear to indicate what the ground area of the structure as a whole would be and the Council have stated that the ground area of the porch taking into account the projected canopy would be 4.5 square metres. Consequently, it has not been demonstrated that, with the projecting canopy included, the ground area (measured externally) of the structure would not exceed 3 square metres. Moreover, it is highly likely that the ground area of the structure as a whole would exceed 3 square metres, based on the evidence before me.
19. As such, on the balance of probability, I am not satisfied that the demolition of an existing timber porch and replacing it with a brick porch of a similar design would be permitted by Schedule 2 Part 1 Class D of the GPDO.

Conclusion

20. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of demolition of an existing timber porch and replacing it with a brick porch of a similar design was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

D. Boffin

INSPECTOR