



Appeal Decision

Site visit made on 30 June 2020

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 July 2020

Appeal Ref: APP/M1595/X/19/3243808

Red Lion Cottage, Stanford Road, Stanford-le-Hope SS17 0PW

- 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 by Anthony Wills against the decision of Thurrock Borough Council.
 - The application ref.19/01087/CLOPUD, was refused by notice dated 27 September 2019.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is the construction of a summer house.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, I should explain that in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended (the Act), which relates to an application for a lawful development certificate, the planning merits of the proposed development are not relevant, and they are not therefore an issue for me to consider. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

Background

3. The appeal property is a detached house with outbuildings on a substantial plot lying on the northern side of Stanford Road. The house itself stands close to the western site boundary. There is an L-shaped annex building immediately to the north of the house – the purpose of which is not apparent – and a double garage. All three buildings face onto a parking area. The proposed summer house would be towards the eastern site boundary on the area of lawn in the north-eastern quarter of the site.
4. The summer house would be rectangular, about 15 metres long by about 6 metres wide. The application plan shows a building with two larger spaces taking up about half the floor area, with a corridor leading to six smaller rooms. Further information sought by the Council indicates the two larger rooms would be a games room and a gym. The small rooms would be given over to a sunbed, a sauna, wc/shower, a 'man cave', storage room and music room.

Reasons

5. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the proposed summer house would be permitted development under the provisions of Class E of Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
6. Class E includes permission for the provision of any building within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of the dwellinghouse as such. Paragraph E.1(c) precludes buildings from this allowance if any part of the building would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
7. Looking first at the question of location of the proposed building, the government's document 'Permitted Development rights for householders – Technical Guidance' of April 2017 (the Technical Guidance) defines the principal elevation of a dwelling as follows:

"Principal elevation" – in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

The guidance goes on to say:

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.

8. I appreciate that the Technical Guidance says that in most cases the principal elevation will be that part of the house which fronts the main highway serving the house. In my experience that is the case. However, in this instance it appears to me that the front of the house is the elevation that contains the main architectural features – the front entrance porch, the projecting gabled bay, and the windows of the principal rooms on the ground and first floor. The elevation towards Stanford Road is very much a subsidiary side of the house, with a conservatory and a relatively minor window. As a matter of fact and degree I consider the principal elevation is the east facing one, onto the car-parking area and access drive.
9. The appellant claims that the when originally built the front door of the house was 'off (*sic*) the southern elevation', facing the road, but that subsequent remodelling relocated it to the eastern elevation. However, apart from this statement there is effectively no evidence put forward to substantiate the claim. Given the strong evidence of the principal architectural features, I give little weight to it.
10. The fact that houses to either side may have their principal elevations facing towards the road does not alter this somewhat unusual feature of the appeal property, nor is it influenced in any way by the screen of the tall laurel boundary hedge. I conclude on this matter that the proposed summer house is

precluded from the permitted development allowance by virtue of being situated on land to the front of the principal elevation.

11. As regards the proposed summer house, it would be a substantial building of a size and with a layout of internal partitions similar to that of a medium sized dwelling. The appellant argues that the internal spaces are for a variety of purposes for the enjoyment of occupants of Red Lion Cottage. However, virtually no detail is provided of how those purposes are to be accommodated.
12. The relative sizes of the proposed building and existing dwelling are not determinative but may not be irrelevant. In this case the summer house would have a footprint somewhat greater than that of the main house, and probably somewhat smaller than that of the L-shaped annex. The question is, would the incidental use occur together with the use of the dwelling but remain subordinate to it?
13. The gym and games room together are slightly more than half the floor area of the building – that is, roughly 45 square metres. This is a very generous size for an incidental domestic use, and beyond what might be expected for use by a single household. This cannot reasonably be seen as subordinate. There is no apparent explanation as to why other uses, such as the music room and ‘man cave’ are not readily accommodated in the house, or possibly the annex.
14. I am not satisfied that the new building is genuinely and reasonably required or necessary to accommodate the proposed uses, and do not consider it would achieve the purpose and necessary incidental quality in relation to enjoyment of the dwelling. I conclude on this matter that the proposed summer house cannot be regarded as for a purpose incidental to the enjoyment of the dwellinghouse as such.
15. Overall, on the balance of probabilities I consider the proposed summer house cannot be regarded as incidental to the enjoyment of the dwellinghouse as such, and would also be precluded from the allowance under Class E of Part 1 to Schedule 2 of the GPDO by reason of being situated on land forward of a wall forming the principal elevation of the original dwellinghouse.

Conclusions

16. For the reasons given above, and regarding all other matters raised, I conclude that the Council’s refusal to grant a certificate of lawful use or development in respect of construction of a summer house at Red Lion Cottage, Stanford Road, Stanford-le-Hope SS17 0PW 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 as amended.

Stephen Brown

INSPECTOR