



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/W2465/X/21/3287095

21 Lintlaw Close, LEICESTER, LE4 7YH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr & Mrs Patel against the decision of Leicester City Council.
 - The application ref 20211442, dated 23 June 2021, was refused by notice dated 1 September 2021.
 - 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 a single storey outbuilding to the rear of the dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the refusal to grant the certificate of lawful development for the single storey outbuilding to the rear of the dwelling was well founded.
3. It is for the appellant to prove the elements of their case on the balance of probability.
4. The proposed outbuilding would need to fall within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 in order to be permitted development within the curtilage of a dwellinghouse. The parties accept that the proposed building meets the conditions and limitations contained in Class E but they disagree about whether the appellant has proven on balance that the building is required for a purpose incidental to the enjoyment of the dwellinghouse as such.
5. Caselaw provides that the word 'required' in Class E should be interpreted to mean reasonably required. The appellant has indicated that the structure would be used for storage. However, as there is already an existing outbuilding at the rear of the garden for this purpose it is far from clear that the proposed additional outbuilding (which is the subject of this appeal) is reasonably required for a purpose incidental to the use of the dwellinghouse as a dwellinghouse. No information has been provided about what would be stored in the building or why it is required in addition to the existing outbuilding, and the appeal is therefore not sufficiently precise.
6. The appellant has not provided details about how the additional outbuilding is genuinely and reasonably required to accommodate a use incidental in relation to the enjoyment of the dwellinghouse, in accordance with Class E.

7. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the single storey outbuilding to the rear of the dwelling was well-founded and that the appeal shall fail. I will exercise accordingly the powers transferred to me in section 195 (3) of the 1990 Act.

Zoë Frank

INSPECTOR