



Appeal Decision

Site visit made on 1 September 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 September 2022

Appeal Ref: APP/W5780/X/22/3298431

402 Cranbrook Road, ILFORD, IG2 6HW

- 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 MEMZI SAVAS against the decision of London Borough of Redbridge.
 - The application ref 0575/22, dated 18 February 2022, was refused by notice dated 28 April 2022.
 - The application was made under section 191(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 single storey front enclosed canopy with seating area.
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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 front enclosed canopy with seating area was well-founded. The planning merits of the development are not relevant to this appeal which is not an appeal for planning permission.
3. The description of the development in the application was: 'an existing front garden canopy of a Restaurant (use class A3)'. The development consists of an aluminium frame with glazed front and sides and a canopy/roof which on the front of the appeal property. The appellant's case is that the land within the enclosed area is in their ownership and has been used for customer seating for many years, previously with a canvas canopy attached to the front elevation of the building. This is accepted by the Council. The appellant has not provided a date for the construction of the newer glazed development but it is not shown in a photograph from Google Streetview dated October 2020, and this is well within a period of 4 years pre-dating the application date. In any event, it would be for the appellant to prove on a balance of probabilities that the time limit during which enforcement action could be taken had passed, but they have not done so.
4. The glazing and roof to enclose the forecourt constitutes development and there is nothing before me to show that it benefits from an express planning permission. Neither does it benefit from permitted development rights pursuant to Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) Order 2015 which covers the extensions of shops, as development is not permitted where any part of it would extend beyond an existing shop front, as is the case here. The appellant refers to the use of the

premises as a restaurant (referred to as the previous use class A3/A5) rather than a shop but that would not make any difference to the outcome of the appeal as there are no permitted development rights to extend the front of a restaurant premises.

5. For the reasons above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a single storey front enclosed canopy with seating area 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.

Zoë Franks

INSPECTOR