



Appeal Decision

No site visit was made.

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal Ref: APP/W1525/X/22/3301846

6 Stansted Close, CHELMSFORD, ESSEX, CM1 2TW

- 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 John Adebogun against the decision of Chelmsford City Council.
- The application ref 22/00440/CLOPUD, dated 21 March 2022, was refused by notice dated 26 May 2022.
- The application was made under section 192 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 vehicular crossing and drop kerb.

Procedural Matters

1. A site visit was not necessary to make an informed decision on the issues involved.

Decision

2. The appeal is dismissed.

Reasons

3. The General Permitted Development Order [GPDO] Schedule 2, Part 1, F. notes that Development consisting of—(a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or (b) the replacement in whole or in part of such a surface, is permitted development, but there are conditions.
4. Development is permitted by Class F subject to the condition that where—(a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and (b) the area of ground covered by the hard surface, or the area of hard surface replaced would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.
5. There is little detail with the application, but the appellant notes in a statement/email that an Eco drain would be installed on his property to prevent run-off onto the public footpath and he is willing to submit a drawing. It was also noted that the proposed hard standing is going to be made to direct water run-off into a drain. If the hardstanding would direct water run-off to a permeable porous surface or drain, or into appropriate drainage it could comply with this part of the GPDO.

6. However, it is not clearly or precisely shown how this would be achieved. Paragraph: 005 (Reference ID: 17c-005-20140306) of the Planning Policy Guidance states that "An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced"
7. In my view, simply stating there will be an Eco drain and it will not add water to the path/highway and that the local planning authority's approval is not required is effectively saying it would be in accordance with the GPDO, and is not precise. If the appellant wants it confirmed that the detail of what he proposes complies with the GPDO, precise details upon which the LDC would be based are required, so the appeal will be dismissed on this basis.
8. GPDO Schedule 2, Part 2, Class B relates to means of access to a highway. Section B notes that permitted development is the formation, laying out and construction of a means of access to a highway, which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule.
9. It does not relate to ownership of land, and in general planning is not concerned with ownership, just the planning consequences of a proposal. Therefore, the proposal would comply with this part of the GPDO if it was required in connection with development permitted by any Class in the Schedule. If the applicant wishes to cross land in others' ownership, it would be normal to seek the permission of the landowner. If the landowner's permission is not sought and it objects, it can take appropriate legal action.
10. I therefore conclude overall that the application is not precise enough to grant an LDC and the proposal would not comply with the GPDO.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a vehicular crossing and drop kerb 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.

Graham Dudley

INSPECTOR