



Appeal Decision

Site visit made on 26 April 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2023

Appeal Ref: APP/W5780/X/22/3311055

12 Albemarle Gardens, Gants Hill, Redbridge, Ilford IG2 6DJ

- 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 Mrs Jinyan Miao against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3512/22, dated 21 October 2022, was refused by notice dated 2 November 2022.
 - 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 erection of front porch.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It has been brought to my attention that an appeal has recently been allowed, granting planning permission for a front porch extension at the appeal property¹. For the avoidance of doubt my decision in this case is independent of, and has no implications for, that decision.

Main Issue

3. The main issue is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class D of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. In order for an LDC to be granted under s192, it is necessary for the appellant to show, on the balance of probabilities, that the proposed development would be lawful at the date of the application. Subject to limitations, Class D permits the erection or construction of a porch outside any external door of a dwellinghouse. The limitations include that any part of the structure should not be more than 3 metres above ground level or within 2 metres of any boundary of the curtilage of the dwelling with a highway. There is no dispute that the porch would meet these criteria. However, it is also a requirement that the

¹ Appeal reference APP/W5780/D/22/3312512, dated 30 March 2023

ground area of the porch, measured externally, must not exceed 3 square metres. The parties differ as to whether this requirement is met, having regard to the description of the permitted development right.

5. The appellant has demonstrated on a plan that the external floor area of the proposed porch itself would be some 2.97 square metres. She therefore claims the structure to be within the permitted development tolerance threshold.
6. The Council does not dispute the aforementioned calculation. However it says that the proposed porch should be regarded as additional to an original recessed porch, that was situated within the envelope of the dwelling footprint, but which nevertheless was open to the front and provided access to the interior of the dwelling via an external door. The area of the original porch has been calculated by the Council to be some 5.2 square metres. It therefore says that cumulatively the porch areas would exceed the three square metre limitation, and as such the proposed development would not be permitted development.
7. This calculation has not been challenged by the appellant, however they say that the proposed front porch should be considered as an independent structure, and the original recessed porch area, under the roof or envelope of the host dwelling, should be excluded from the calculation.
8. In support of its case the Council has submitted two previous appeal decisions concerning porch enlargements². In both cases the respective Inspectors regarded existing or redeveloped porches as contributing to the total porch area calculation. Notably in one of the cases the Inspector found that if this was not the case then there would be nothing to prevent the repeated addition of porch extensions, providing that each independent addition was in accordance with the permitted development criteria. This, they say, could not therefore have been what was intended by the GPDO regulations. I have no reason to challenge this principle. Accordingly, it seems to me that a porch should be regarded as serving the external door of a house and that it would not be correct to regard the porch door itself as the external door of a house for the purposes of Part 1 Class D of the GPDO.
9. There is no evidence presented to persuade me that a recessed area under the roof or within the envelope of the host dwelling cannot, in principle, still be regarded as a porch. Notwithstanding that the original porch was recessed in design, and latterly appears to have become fully enclosed by the insertion of glazing and doors in the original opening, this did not, in itself, mean the porch no longer continued to serve the original external entrance door to the dwelling. I consider that the Council's approach, to not disregard the existence of an original porch, to be correct.
10. Therefore my decision turns on whether the proposal in this case should be regarded as an extension to that original porch. Having regard to existing layout drawings submitted with this application, it is suggested that the original porch area was previously converted into habitable room space, and that as such the original porch no longer exists. The findings of my site visit were inconclusive in this regard, given that this part of the appeal property is subject to ongoing renovation work. However, I am mindful that the previous Inspector, who granted the recent planning permission at the appeal site, said

² Appeal references APP/W0340/X/11/2154715 & APP/F5540/C/11/2164451

in the decision letter that the plans submitted in that case indicated the presence of the entrance door [to the dwelling] at one side of the set back ground floor area. This suggests that the original porch was present when that planning application was submitted, and despite the enclosure of this area being acknowledged in the decision letter, there is no suggestion that it was no longer in existence at the time of the Inspector's site visit.

11. Drawing these considerations together, I therefore consider it to be ambiguous as to whether the original recessed porch area was lost prior to the date of the LDC application, which followed the planning application for the development granted on appeal by a matter of only a few months and which was prior to the site visit relating to that appeal.
12. Therefore, from the information before me, I am unable to reach the conclusion, on the balance of probabilities, that at the date of this application the proposed porch would not have constituted an extension to the original porch, which itself would have served an external entrance door to the dwelling. The cumulative area of the resulting porch would not have accorded with the relevant permitted development criterion.
13. Therefore, for the aforementioned reasons, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of erection of front porch at 12 Albemarle Gardens, Gants Hill, Redbridge, Ilford IG2 6DJ 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.

R. Merrett

INSPECTOR