



Appeal Decision

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/J1535/X/22/3309038

The Meadows, Nursery Road, Nazeing, Waltham Abbey, Essex EN9 2JF

- 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 Ms Costas Anatolitis on behalf of Anatolitis Associates against the decision of Epping Forest District Council.
 - The application ref EPF/1708/22, dated 20 July 2022, was refused by notice dated 22 September 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 a 1st floor roof extension with roof dormers to both side elevations, plus one roof window, plus a new porch to the principal elevation, plus glazed door added to the side elevation at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Based on the evidence submitted and the matters in dispute, a site visit has been deemed to be unnecessary as it would not provide any material benefit to my determination of the appeal. The parties have agreed to the appeal proceeding on this basis.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

4. Under Class B, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted development. Under Class B.1.(c), such development is not permitted if any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.
5. The Permitted Development Rights for Householders Technical Guidance 2019¹ (Technical Guidance) provides guidance on what the principal elevation is. It states that in most cases it will be the part of the house which fronts the main highway, ie the one that sets the postcode for the house, and contains the main architectural features such as bay windows, porches and main entrance to the house. Usually, but not exclusively, the principal elevation will be what is

¹ Published by the Ministry of Housing, Communities and Local Government

- understood to be the front of the house. There will only be one principal elevation on a house.
6. The main entrance into the appeal dwelling is via the southern elevation, which is served by a porch. Therefore, this elevation is considered to contain the main architectural details. The dwelling is on the corner of Nursery Road and the road serving the former nursery. The southern elevation fronts the road serving the former nursery. Although this elevation is at an angle to Nursery Road it is clearly visible from it and read as the front of the dwelling. Consequently, the south elevation is the principal elevation of the appeal dwelling.
 7. I note the main entrance serving the dwelling was historically in the eastern elevation of the dwelling and based on the historical drawings presented by the appellant, it would seem that this was at the time the principal elevation. However, the entrance in this elevation has since been blocked up and as a result this elevation is now read as a side elevation rather than the front elevation.
 8. I have had regard to the appellant's argument that if the proposed porch was constructed on the eastern elevation then this would become the principal elevation once more. However, my consideration of the appeal proposal must be based on the current condition of the appeal dwelling, ie the principal elevation is the south elevation, regardless of whether it may change at some point in the future.
 9. I have considered whether the porch is severable from the other proposed works. Based on the drawings submitted, the porch would result in the loss of a ground floor bedroom, which would have been offset by the additional bedroom at first floor. Consequently, I find that the entire works proposed would amount to a single building operation. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the Town and Country Planning (General Permitted Development) (England) Order 2015 and that other parts of the same development are to be assessed separately. As one building operation, falling within the meaning of development as set out in section 55 of the Town and Country Planning Act 1990 Act (the Act), either the whole of the development benefits from permitted development or none of the development benefits from permitted development.
 10. I find therefore, the proposal would extend beyond the plane of the existing roof slope which forms the principal elevation of the dwellinghouse, ie the southern elevation, and fronts a highway, ie the road serving the former nursery. As such, the proposal fails to meet the requirements of Class B of the GPDO and therefore would not be permitted development.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is 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.

A Walker

INSPECTOR