



Appeal Decision

Site visit made on 12 March 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/Z3825/X/23/3325859

Lake Cottage, Nuthurst Street, Nuthurst, West Sussex RH13 6RG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Islam Syed against the decision of Horsham District Council.
 - The application ref DC/22/2093, dated 4 November 2022, was refused by notice dated 18 January 2023.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is described on the application form as: replacement and enlargement of existing building.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the proposed building would constitute permitted development by virtue of the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

3. There is no dispute that the erection of the proposed building would comprise development requiring planning permission, with regard to sections 55 and 57 of the Act. Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO grant planning permission for buildings incidental to the enjoyment of a dwellinghouse, subject to limitations set out in paragraph E.1 of Class E. Limitation (c) of paragraph E.1 states that such development is not permitted if any part of the building would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse. No information has been provided which leads me to doubt that the existing dwellinghouse is the original dwellinghouse at the appeal site.
4. The phrase 'principal elevation' is not defined in any relevant legislation. The Government's Technical Guidance¹ does not clearly define the phrase, but explains that it is 'understood' as follows:

'...in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will

¹ Permitted development rights for householders (2019)

usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation’.

5. The appeal site obtains its postcode from Nuthurst Street, which is some distance east of the appeal site, beyond woodland. The appeal site is served by a long private driveway leading through the woodland. Although Nuthurst Street is the main highway serving the appeal site, it would be misleading to describe any elevation of the dwellinghouse as fronting it on account of the expanse of intervening space and trees. In any case, the Government’s Technical Guidance does not confirm that the principal elevation of a dwellinghouse is its elevation facing the direction of the adopted public highway which provides its postcode.
6. The dwellinghouse is a sprawling bungalow with modest architectural features. It overlooks large garden space and a lake to the west, with a backdrop of wide countryside views. Much smaller garden and functional space surrounds the dwelling on other sides.
7. The southwest elevation of the dwellinghouse provides its main entrance, identified by a large doorway with an open-sided porch leading from the driveway. This is clearly the front of the house, facing the main garden area, lake, and attractive countryside views. In comparison, all other elevations are more informal, closer to the site boundaries, and are less important to how the building is experienced aesthetically by its occupants and visitors.
8. Notwithstanding the fact that the southeast and northeast elevations of the dwellinghouse face towards Nuthurst Street, I am in no doubt that any reasonable person would interpret the southwest elevation as the main or principal elevation of the dwellinghouse. This is for the above reasons, with due consideration to the Government’s Technical Guidance.
9. The proposed building would be situated forward of the southwest elevation of the dwellinghouse, and would not therefore accord with limitation (c) in paragraph E.1 of Class E. The proposed building would not therefore benefit from the planning permission granted by Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO. I have not been referred to any other planning permission that the proposed building may benefit from, and it has not been demonstrated, on the balance of probabilities, that it would be lawful.

Conclusion

10. 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 proposed replacement and enlargement of an existing building was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR