



Appeal Decision

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/W5780/X/23/3329399

28 Lansdowne Road, Seven Kings, Redbridge, Ilford IG3 8NE

- 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 Bodrul Hussain against the decision of the Council of the London Borough of Redbridge.
 - The application ref 1947/23, dated 1 July 2023, was refused by notice dated 18 August 2023.
 - The application was made under section 191(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: Brick built front porch.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government's guidance 'Certificate of lawful use or development appeals: procedural guide' (2022) states that a site visit will not be needed for every appeal, and it is for the Inspector to decide whether to conduct one¹. No site visit has been carried out in this case as all information needed for me to determine the appeal has been provided by the main parties.
3. In any LDC appeal the appellant is required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate. The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities. The planning merits of the development, such as its design and benefits, are not relevant to my consideration of whether the development is lawful.

Main Issue

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

Reasons

5. Section 57 of the Act states that planning permission is required for the carrying out of any development of land. Section 55 of the Act provides the meaning of 'development', which includes the carrying out of building and other operations. Building operations were involved in the erection of the porch, which comprised development requiring planning permission.

¹ Paragraph 7.2.11.5

6. I have been referred to planning permission reference 1568/22, which is claimed to have authorised a porch of a slightly different design. I have not been provided with the full details of that planning permission, but the appellant does not dispute that the porch which has been erected is not in accordance with that planning permission.
7. Planning permission is granted for the erection or construction of a porch outside any external door of a dwellinghouse, subject to limitations, under the provisions of Article 3(1) and Class D, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Those limitations are set out in paragraph D.1 of Class D. Limitation (c) of paragraph D.1 states that such development is not permitted if any part of the porch would be more than 3 metres above ground level.
8. Plans which have been submitted as part of the application are annotated to show that the porch has a maximum height of 3.5 metres above ground level, consistent with the porch at the adjacent property. The porch does not therefore accord with limitation (c) of paragraph D.1 of Class D, and it does not benefit from any planning permission granted by the GPDO.
9. I have not been referred to any planning permission which the porch may have been built in accordance with and I am therefore unable to conclude, on the balance of probabilities, that the porch is lawful.
10. I have been referred to a number of other porches in the local area which are claimed to exceed 3 metres in height from ground level, and the contribution that the porch makes to a visually cohesive streetscape on account of its height being consistent with the porch at the adjacent property. I have also been referred to the benefits of the porch to people with disabilities. These matters are not relevant to the lawfulness of the development, and do not therefore affect my decision in this appeal.

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 brick built front porch 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