



Appeal Decision

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

Appeal Ref: APP/L5810/X/23/3335289

**32 Lower Teddington Road, Hampton Wick, Richmond upon Thames
KT1 4HJ**

- 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 & Mrs Syers against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application ref 23/2564/PS192, dated 19 September 2023, was refused by notice dated 22 November 2023.
 - 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 an outbuilding incidental to the enjoyment of the dwellinghouse.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Preliminary Matters

2. This appeal turns on the interpretation of the Town and Country Planning (General Permitted Development) Order 2015 as amended (the GPDO) and the proposal depicted on the submitted plans. The planning merits are not relevant to the determination and relevant facts are not disputed. As such, it has not been necessary for me to visit the appeal site.

Reasons

3. Section 192(2) of the Town and Country Planning Act 1990 as amended indicates that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
4. The appeal relates to an outbuilding. It would be constructed on sloping land and partly spanning a boat dock in the bank of the River Thames. The internal floor would be at ground level at the end of the building furthest from the river with access to the building provided at that point. The river end would be substantially elevated across the boat dock, where steps would lead to an external landing area outside a further access to the building.
5. The GPDO, Article 3, Schedule 2, Part 1, Class E grants planning permission for the provision within the curtilage of the dwellinghouse of any building or enclosure for a purpose incidental to the enjoyment of the dwellinghouse as

- such. Paragraph E.1.(h) states that the development is not permitted if it would include the construction or provision of a verandah, balcony or raised platform.
6. The Council's officer report sets out that all other conditions and requirements set out in paragraph E.1. are complied with. However, it is contended that both the external landing and the building itself are raised platforms for the purposes of Paragraph E.1.(h). The Council has suggested that there is caselaw that supports its interpretation of the GPDO, opposing examples provided by the appellant, but has not provided any reference to it.
 7. Even if the building and external landing were platforms, that would only prevent the building benefitting from the permission granted by the GPDO if the platforms were raised. The GPDO, Schedule 2, Part 1, Paragraph I, confirms that 'raised' in relation to a platform means a platform with a height greater than 0.3 metres. The external landing and river end of the building are more than 0.3 metres above the ground level alongside them.
 8. However, the Government's "Permitted development rights for householders – Technical Guidance" (the Technical Guidance), suggests that 'height' should be interpreted as the height measured from ground level and, where that ground level is not uniform, then the ground level is the highest part of the surface of the ground next to the building.
 9. As noted above, the highest part of the ground level next to the building, at the end furthest from the river, is at the floor level of the building. This is the same height as the external landing.
 10. The development proposed in this case is the whole building. The external landing would be an integral part of the building. As the relevant Technical Guidance refers to the 'building', and the interpretation of 'height' and 'raised' are within the General Issues section, rather than being particular to the interpretation of Class E, or paragraph E.1.(h), I find that the height of any raised platform in this case should also be measured from the highest part of the ground adjacent to the building. That height would not be exceeded by any part of the proposal that could be deemed a raised platform.
 11. Therefore, I find that the building would benefit from the planning permission granted by the GPDO. Accordingly, it would have been lawful on the date that the application was made.
 12. I conclude that, on the evidence now available, the Council's refusal to grant an LDC in respect of the erection of an outbuilding incidental to the enjoyment of the dwellinghouse was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

M Bale

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 19 September 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development would benefit from the planning permission granted by the Town and Country Planning (General Permitted Development) Order 2015 as amended, Article 3, Schedule 2, Part 1, Class E.

Signed

M Bale

INSPECTOR

Date: 03 June 2024

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First Schedule

Erection of an outbuilding incidental to the enjoyment of the dwellinghouse in accordance with the plans submitted with the application.

Second Schedule

Land at 32 Lower Teddington Road, Hampton Wick, Richmond upon Thames
KT1 4HJ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 03 June 2024

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Scale: Not to Scale

