

Appeal Decision

Site visit made on 24 September 2024

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16th OCTOBER 2024

Appeal Ref: APP/N4720/X/24/3338374

Linton Lane , Linton , Wetherby , West Yorkshire , LS22 4HH

- 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 Den Architecture against the decision of Leeds City Council.
 - The application ref 23/05857/CLP , dated 26 September 2023, was refused by notice dated 20 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 single storey side extension and detached outbuilding to rear.
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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 for the development was well-founded.
3. The appellant is seeking an LDC to confirm that the proposed works fall within Schedule 2, Part 1, Class E of the Town and Country Planning (Permitted Development) Order 2015 as amended ("the GPDO"). The Council is satisfied that the proposed single-storey side-extension to the southern elevation of the existing house falls within Schedule 2, Part 1, Class A of the GPDO and nothing has been submitted that causes me to think otherwise.
4. It is accepted that the proposed building and use falls within the constraints provided by Class E. However, the rear garden of the plot has a significant incline upwards and away from the existing dwellinghouse. This is clearly seen on the site plans and drawings provided which show the proposed building to be stepped into four parts in order to accommodate this change in the levels. Whilst the drawings do not clearly show all of the ground floor measurements, it is evident that there is a difference of well over 2 metres between the highest and lowest ground floor levels of the out-building. Notwithstanding that incline is incorporated into the design so that the pool takes advantage of the change in ground levels, the outbuilding, including the works to

accommodate the pool and internal floor levels, would still necessitate significant excavation and engineering works.

5. Whilst the "Permitted development rights for householders: technical guidance" document does not provide a specific definition or limit for the permissible degree of engineering works associated with the permitted development under Class E it is not the case that this means that there is no limit at all. There is a point when excavation and associated works form a separate operation to the development permitted by Class E (which does not in itself expressly permit engineering operations). It is a matter of fact and degree that in this case, even taking into account the stepped design of the building, the proposed works to allow the permitted development to take place on the significant gradient are of such a scale and significance that they constitute a separate element of development. As such these works require planning permission in their own right.
6. As the proposed development constitutes two activities of substance (i.e. the out-building and the engineering works to make the land suitable to accommodate it) the Council's decision was well-founded.

Conclusion

7. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of single storey side extension and detached outbuilding to rear 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).

Zoë Franks

INSPECTOR