



Appeal Decision

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2025

Appeal Ref: APP/U1430/X/23/3328495

13 Lionel Road, Bexhill on Sea, East Sussex TN40 1NS

- 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 Gayle Benet against the decision of Rother District Council.
 - The application ref RR/2023/1003/O, dated 5 May 2023, was refused by notice dated 18 July 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is 'erection of a pair of garages 6m x 6m, use existing access from Cantelupe Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 13 Lionel Road is a two-storey semi-detached dwelling with a rear amenity area that has a frontage onto Cantelupe Road. The proposed pair of garages would be built in this amenity area.
4. Under Class E of Part 1 of Schedule 2 of the GPDO the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. The Council does not dispute that the proposed building would be built in the curtilage of the dwellinghouse and they accept that the building would be for a purpose incidental to the enjoyment of the dwellinghouse. They maintain, however, that the proposed building does not satisfy the limitations in paragraph E.1.
5. Development is not permitted under Class E if, with regard to paragraph E.1(e), the height of the building would exceed 2.5 metres in the case of a building within 2 metres of the boundary of the curtilage of the dwellinghouse. The Government has published Technical Guidance for Part 1 of Schedule 2 of the GPDO. With regard to limitation (e) of Class E the Guidance states that "If any part of the building...is within 2 metres of the boundary of the curtilage of the house, then the height for the total development is restricted to 2.5 metres if it is to be permitted development".

6. The Council calculates that each side elevation of the proposed building would be less than two metres from the boundary of the curtilage of the house. The Appellant has not challenged these calculations. The building would be 3.5 metres high to its ridge. The building would be within 2 metres of the boundary of the curtilage of the house and its height would be greater than 2.5 metres. The proposed development does not satisfy the height limitation of paragraph E.1(e) and would not therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

7. For the reasons given the Council's refusal to grant an LDC was well-founded and the appeal fails. The powers transferred in section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector