
Appeal Decision

Site visit made on 26 November 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 December 2025

Appeal Ref: APP/J0540/X/25/3358779

26 Kent Road, Peterborough, Cambridgeshire PE3 6DG

- 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 Justin Stanford against the decision of Peterborough City Council.
 - The application ref 24/01093/CLP, dated 21 August 2024, was refused by notice dated 17 October 2024.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which an LDC is sought is: ground floor rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant was unable to attend the site visit, which was therefore conducted unaccompanied, with his and the Council’s knowledge.
3. While the extension is now substantially complete, the parties confirm that the development was not commenced until after the application had been made. I shall therefore determine the appeal as relating to development that was proposed when the application was made.

Main Issue

4. The main issue is whether the Council’s decision to refuse to issue an LDC is well-founded. This will turn on whether the building operation of the erection of the ground floor rear extension would have been lawful if it had begun on the date of the application.

Reasons

5. Under section 191(2) of the Act an operation may be found lawful if no enforcement action may be taken in respect of it and it does not contravene any requirement of an enforcement notice then in force. There was no relevant enforcement notice in force when the application was made, so it only needs to be determined whether enforcement action against the erection of the extension was possible at that time.
6. Whether such action would have been expedient is not a matter to be considered in this appeal. Nor, if it transpires that the erection of the extension is development requiring planning permission, is whether it should be permitted.

7. Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("Class A" of "the Order") grant planning permission for the enlargement, improvement or other alteration of a dwellinghouse, subject to limitations and conditions.
8. Paragraph A.1. of Class A contains 12 limitations, (a) to (l), under which the enlargement, improvement or other alteration of a dwellinghouse is not permitted by Class A. It is agreed that none of those limitations applies, except for limitation (j), which the Council considers relevant. This limitation is that the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and that any of the limitation's sub-clauses (i), (ii) and (iii) would apply.
9. The Government published 'Permitted development rights for householders - Technical Guidance' ("the Technical Guidance") in September 2019.¹ This explains what is permitted by Article 3 and Part 1 of Schedule 2 and how the Order's relevant provisions should be applied in particular circumstances.
10. The Technical Guidance comments on limitation (j) stating, "A wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. [Dwelling]houses will often have more than two side elevation walls."
11. The rear of the original dwellinghouse was staggered at ground floor level, with a WC and part of the kitchen projecting beyond the dining room. The walls of the kitchen and WC included a wall facing toward the common side boundary with 24 Kent Road. That wall cannot be identified as being a front wall or a rear wall of the original dwellinghouse, so it can only have been a side wall as defined by the Technical Guidance.² As proposed, the extension would not only project beyond the rear of the dwellinghouse, as described, but also extend beyond this original side wall, toward No. 24. Limitation (j) will therefore apply in this instance, subject to consideration of its 3 sub-clauses.
12. It is agreed that sub-clauses (i) and (ii) do not apply, so only sub-clause (iii) needs to be examined. This is that the extension would have a width greater than half the width of the original dwellinghouse.
13. Neither party has provided a measurement for the width of the original dwellinghouse but a scale bar on the submitted combined plan indicates that it is between 6.0m and 6.5m. The same plan confirms that the extension has a maximum width of 3.6m. Even allowing a margin of error when using the scale bar, that exceeds half the width of the original dwellinghouse.
14. Observation confirms that what was proposed and has since been built extends beyond a wall forming a side elevation of the original dwellinghouse and indicates that its width is more than half the width of the original dwellinghouse.
15. Accordingly, limitation (j) of paragraph A.1. and its sub-clause (iii) apply, meaning that the extension is not permitted by Article 3 and Class A of the Order. While the appellant correctly identifies that Class A may permit larger extensions in some circumstances, that does not alter the effect of limitation (j) and its sub-clause (iii). The extension is therefore development requiring an express grant of planning permission, which has not been granted. This means that, had the development

¹ <https://www.gov.uk/government/publications/permitted-development-rights-for-householders-technical-guidance>

² Illustrated in the diagram at page 22 of the Technical Guidance.

commenced on the date of the application, enforcement action could have been taken against it, and it is therefore not lawful.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal to grant an LDC for the proposed ground floor rear extension is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Mark Harbottle

INSPECTOR