

Appeal Decision

Site visit made on 19 March 2026

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 30th March 2026

APP/C3240/X/25/3363339

51 Ercall Gardens, Wellington, Telford TF1 1RD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by Telford and Wrekin Council to grant a certificate of lawful use or development.
- The appeal was made by Mr John Kushnir.
- The application, No. TWC/2025/0168 was made on 7 March 2025 under s.192(1)(a) of the Act. It was refused by a notice dated 28 March 2025.
- The Application for a Certificate of Lawful Development, (LDC), was for: Proposed use of the roof of existing single storey outhouse as a roof terrace at No. 51 Ercall Gardens, Wellington, Telford TF1 1RD.

Summary of decision: The appeal is dismissed.

Appeal property

1. The appeal property, 51 Ercall Gardens, is a 2 storey semi-detached dwelling with a long front and sizeable southern side garden in a residential part of the town of Wellington. There is a single storey brick built flat roofed outbuilding some 3.5m wide by 3m deep sited to the side and rear of the house at No 51.
2. The Appellant, Mr Kuchnir, said his application to build a 3 bedroom house in the southern part of the garden of No. 51 was granted planning permission on 1 August 2023, ref: TWC/2023/0306. The new dwelling and its curtilage would be alongside a newly formed south-eastern boundary of No. 51 to be numbered 53 Ercall Gardens. The major part of the existing single storey outbuilding the subject of this LDC appeal was to be incorporated and attached to the new dwelling to form a downstairs bathroom.

Application

3. The LDC application is for the provision of a roof terrace on the existing outbuilding at No 51 Ercall Gardens, (application drawing A1 shows existing ground floor plan and proposed roof terrace plan). The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), describes such facilities to include a "Verandah, balcony or raised platform", (below). I consider the application project description of a roof terrace to be so included.

Considerations

4. Mr Kuchnir's LDC application asserts that the erection of an access ladder and necessary safeguarding railings the roof of the LDC application outbuilding and its use as a roof terrace would be permitted development. The Town and Country Planning (General Permitted Development) (England) Order 2015 in Schedule 2 Part 1, allows, within the curtilage of a dwellinghouse at Class A, the enlargement, improvement or other alteration of a dwellinghouse. But Class A.1 says development is not permitted by Class A if it consists of the construction or provision of a verandah, balcony or raised

platform - A(k)(i). That is confirmed by the short paragraph at page 29 of the Ministry of Housing, Communities and Local Government permitted development for Householders Technical Guidance document dated September 2019 which states: "Verandahs, balconies and raised platforms are not permitted development and will require planning permission."

5. In my view, the provision of a roof terrace on the existing outbuilding at No. 51 Ercall Gardens would not be permitted by any part of the Order, including Schedule 2, Part 1, Class E *buildings etc incidental to the enjoyment of a dwellinghouse* as suggested by Mr Kushnir.

Conclusion

6. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made for a Certificate of Lawful Development for Proposed use of the roof of existing single storey outhouse as a roof terrace at No. 51 Ercall Gardens, Wellington, Telford TF1 1RD was well founded and that the appeal should not succeed. I exercise the powers transferred to me by s.195(3) of the Act accordingly.

John Whalley

INSPECTOR