



Appeal Decision

Site visit made on 10 March 2026

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 8 APRIL 2026

Appeal Ref: APP/C5690/X/25/3362148

30 Brightling Road, Lewisham, LONDON SE4 1SQ

- 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 Clive Goadby against the decision of the Council of the London Borough of Lewisham.
 - The application ref DC/24/138163, dated 14 November 2024, was refused by notice dated 9 January 2025.
 - 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 described as: 'Overcladding external walls with insulated render, replacement of windows with high-performance windows, installation of ASHP on rear flat roof and Solar Panels on rear and side pitches, renewal of existing entrance steps'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has introduced new evidence in the appeal which was not before the LPA when it determined the application. Since s195(2) of the Town and Country Planning Act 1990 (1990 Act) refers to whether or not the Council's refusal is well-founded, rather than the reasons for that decision, it is appropriate that I consider new evidence included with the appeal.

Background and Main Issue

3. The LPA's decision notice indicated that the proposed development was lawful save as regards the proposed air source heat pump (ASHP) and entrance steps. I have no reason to disagree with the LPA's assessment as regards the proposed overcladding, window replacement and solar panels. My determination is therefore limited to the proposed ASHP and entrance steps.
4. The main issue is whether or not the Council's refusal was well-founded. This will turn upon whether the development as described above was lawful as at the date of the lawful development certificate (LDC) application.
5. In a LDC application, planning merits are not relevant. My decision rests solely upon the application of the law and relevant judicial authorities. The onus is on the appellant to make their case on the balance of probability.

Reasons

6. Subsection 191(2) of the 1990 Act states that operational development is lawful if:
(a) no enforcement action can be taken in respect of those operations (whether because they did not involve development, or require planning permission, because the time for enforcement action has expired, or for any other reason; and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
7. The matters in contention are whether or not the proposed ASHP and entrance steps are lawful on the basis that they represent permitted development (PD) under Schedule 2 of the GPDO¹. Neither party has made submissions related to whether or not these represent development requiring planning permission and since the submitted plans do not provide full details of the visual appearance of the replacement steps and ASHP, I am unable to properly assess whether or not they would materially affect the external appearance of the building².

Entrance steps

8. The LPA assessed the proposed entrance steps under Schedule 2, Part 1, Class A of the GPDO which grants deemed planning permission for 'The enlargement, improvement or other alteration of a dwellinghouse' subject to the conditions and limitations contained in that class. The LPA contends that the proposed steps would breach the limitation in A.1.(k)(i) in that they would constitute the construction of a 'raised platform' by reason of their height being greater than 0.3 metres.
9. The appellant contends that the paragraph A.1(k)(i) limitation is intended to prevent 'disproportionate, unsightly or visually dominant construction' to the front of a property such as a veranda and should not be interpreted as applying to a proportionately sized 'landing at the top of a flight of entrance steps'. However, there is nothing in the wording of the GPDO indicating that a raised landing at the top of a flight of steps should be excluded from the definition of a raised platform, nor is there anything that would disregard platforms with a modest footprint from the limitation in question.
10. As to the height of the proposed platform, the appellant does not appear to contend that the 0.3m height restriction would be met. I note that pre-application advice received indicated that the 'reconstructed stairwell' proposed would be 0.2m higher than the top step of the existing stairwell and so was assessed as not constituting a raised platform. It is unclear whether the development considered was identical to that which is the subject of the present appeal. I do not in any event have sufficient detailed evidence as to the ground level adjacent to the steps as at the date of the application or information as to whether or not the proposed steps were to be built up from the pre-existing steps. I cannot therefore properly assess whether the height restriction would be met on the available evidence.
11. I sympathise with the appellant's position that they were seeking to recreate the stairs that would have been in place originally and replace a previous dangerous front steps arrangement and that, given the topography of the site and raised position of the ground floor of the house, any new entrance steps would involve raised construction. However, this does not alter my assessment as to the

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

² Per s55(2)(a)(ii) of the 1990 Act

lawfulness of the proposal. For the reasons explained, on the available evidence, the proposed entrance steps do not represent PD under Class A.

ASHP

12. Class G of Schedule 2, Part 14 to the GPDO grants deemed planning permission in respect of the installation of a microgeneration air source heat pump on domestic premises subject to the limitation and conditions contained in Class G. The LPA does not suggest there would be any breach of the G.2 conditions and I have no reason to disagree with that assessment. The matter raised by the LPA was that the appellant had not submitted calculations related to the maximum noise levels of the proposed ASHP. The LPA could not therefore determine whether it would comply with the G.1 limitation which stipulated compliance with the MCS Planning Standards.
13. Details originally submitted with the LDC application reference specifications for an Arotherm plus 5kW unit. The appellant has also submitted new evidence with this appeal in the form of an undated Air Source Heat Pump Noise Level Calculation Form which indicates compliance with the PD noise limit in respect of ASHPs. An MCS Installation Certificate dated 28 January 2025 from Elite Renewables is also submitted which references a 5kW Arotherm plus unit.
14. The LPA has not raised any concerns as to the content of the assessment or certificate submitted and I have no reason to doubt the stated confirmation of PD compliance on the evidence before me. It appears then that the proposed Arotherm plus 5km unit would, as at the date of the LDC application, have complied with the G.1. limitation and so would have been PD under Class G. However, since the LDC application was made in respect of a proposed development, it is not open to me to issue a LDC in respect of the ASHP only.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for 'Overcladding external walls with insulated render, replacement of windows with high-performance windows, installation of ASHP on rear flat roof and Solar Panels on rear and side pitches, renewal of existing entrance steps' is 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).

V Bond

INSPECTOR