

LDC submissions s192 TPCA 1990

Preface

There are 2 applications made, one for rear enlargement, the other for 2x outbuildings.

The applicant wishes to engage his permitted rights to enlarge the house and erect a garden room and garage within his curtilage. The applications have associated plans showing the proposed developments.

The rights referred to below are those contained in GPDO 2015 Schedule 2 Part 1 as amended ['PD rights'].

Policy is not relevant. Consequently, green belt policy per NPPF is outwith the scope of PD rights analysis. There is no point in consultation, given such is entirely a legal matter.

Outbuildings - these will be permitted development pursuant to PD rights Class E because:

the ground area will not exceed 50% of the curtilage excluding the original dwelling; they will not be forward of the principal elevation; neither will have more than one storey; neither will be more than 4m in height or 2.5m within 2m of a boundary; the eaves will not exceed 2.5m; neither will involve provision of a veranda, balcony or raised platform; it is not within Article 2(3) land; neither exceed in terms of floor space use more than reasonably necessary for the purposes of incidental enjoyment of the dwellinghouse as such.

Rear enlargement - this will be permitted development pursuant to Class A because:

The projection does not exceed 3m from original rear wall, nor is its height greater than 4m, its eaves no higher than existing.

Additional information

For the avoidance of doubt, as policy is irrelevant to PD rights. Moreover, the applicant does not need to seek this certificate, he can carry out the same under planning law whenever he wishes. In none of the leading judicial authorities were there any certificates in place¹, every time the courts upheld the weight given to PD rights.

Per NPPG and Art 39 It is long recognised that unless the LPA has any reliable evidence to cast doubt on the applicant's case, a certificate must be given. NPPG makes clear that if the council possesses, or comes into possession of any contrary evidence, it must supply the same to the applicant's agent promptly and without delay, then give reasonable time to consider the same and respond, including further evidence if necessary.

¹ Mansell [2017] EWCA 1314; Zurich [2012] EWHC 3708; Samuel Smith [2009] JPL 1326 being the original case from which all others stem since