

STATEMENT OF COMPLIANCE



ON BEHALF OF JOHN WISE

**LAWFUL DEVELOPMENT
CERTIFICATE APPLICATION:
PROPOSED PORCH**

**21 KNOLL CRESCENT,
NORTHWOOD, LONDON,
HA6 1HH.**

JULY 2023

CONTENTS

<u>No.</u>	<u>Chapter</u>	<u>Page</u>
1	Introduction and Background	3
2	Proposed Development	3
3	Permitted Development Rights	4
4	Ensuring Rights are Intact	5
5	Limitations and Conditions	6
6	Summary Conclusions	7

APPENDICES

<u>Ref.</u>	<u>Appendix</u>	<u>Page</u>
A	Class D: (Porches) Conditions Analysis	8

1. Introduction and Background

- 1.1 21 Knoll Crescent is a modest, end-of-terrace, dwelling, located in a residential area within Northwood. The property is largely identical in design to a large proportion of houses on Knoll Crescent which share common original features, including single-storey front projections.
- 1.2 Other than a mono-pitch roof, which has similarly been adopted by several other residents in the area (such as the neighbouring property of 23 Knoll Crescent) the property appears as first constructed. The dwelling is not within a Conservation Area, Area of Outstanding Natural Beauty (AONB) or any other designation.
- 1.3 Five applications have been submitted to the Council previously regarding the property. The first of these (13/1546) proposed single storey front and rear extensions but was withdrawn. Application 13/2802 sought to infill the space between the existing front projection and property edge but was refused and subsequently dismissed at appeal. However, a modified version of this (14/2877) was then approved but not implemented. A more recent front extension proposal (21/4486) was refused.
- 1.4 In March this year, the Council received an application seeking a Lawful Development Certificate (LDC) to confirm that the erection of a front porch constituted permitted development, pursuant to Class D of the General Permitted Development Order (GPDO) 2015. This was withdrawn by the applicant's agent on 14th June 2023.

2. Proposed Development

- 2.1 The applicant proposes to erect a front porch pursuant to Class D of the GPDO. Appendix A demonstrates compliance with the conditions and limitations imposed on Class D, but to confirm, the porch would cover not more than 3sqm (when measured externally) and will have a maximum height below 3m, whilst attaching

to part of the original building. The porch would also not be within 2 metres of the boundary of the curtilage of the dwellinghouse with a highway.

- 2.2 The proposed porch is shown on the relevant drawings. The existing ground floor plan is also provided with the application.

3. Permitted Development Rights

- 3.1 There is no debate that the proposed works are 'development', comprising 'building operations' as defined by Section 55(1) of the Town & Country Planning Act 1990. However, the works have been specifically conceived to remain wholly within the limits of 'permitted development', as set out in Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended), specifically Class D.
- 3.2 It is possible to 'test' whether proposed works are lawful through the submission of an application for an LDC.
- 3.3 Powers to grant LDCs for proposed development are conferred by Section 192 of the Town & Country Planning Act 1990; specifically, that any person may seek from a local planning authority a determination, in law, as to whether proposed buildings operations are lawful and free from the possibility of enforcement action by the local planning authority.
- 3.4 The lawfulness of any operations for which a Certificate is in force shall be conclusively presumed unless there is a material change in any of the matters relevant to determining such lawfulness. In other words, lawfulness can only be assessed based on the statute in force, and information submitted at the time the determination is made. In determining whether an operation is lawful, the local planning authority shall have regard only to the facts before it. Matters of merit (e.g., other material considerations) are irrelevant.

- 3.5 Having established that the proposed works comprise ‘development’ there are then three steps to establishing that the works do indeed benefit from permitted development rights.
- 3.6 First, it must be established that permitted development rights are intact for the property and works in question; in other words, such rights have not been withdrawn by force of statute (e.g., an Article 4 Direction) or through a condition attached to an earlier planning permission. Second, it must be clear the works fall within the scope of the relevant Class of permitted development relied upon. And third, the proposed works must comply with the limitations and conditions imposed thereupon (for example, limitations on the position and size of certain extensions).
- 3.7 When the local planning authority is satisfied that these three steps have been taken, and complied with, it must issue a positive certificate which describes the nature of the works deemed to be lawful and provides a schedule of the determinative information.
- 3.8 Importantly, it is not for the certification process to bring within its scope other works, for example those permitted by a development order or planning permission but not yet implemented. The Council should assess the proposal on the basis only of *“the erection or construction of a porch outside any external door of a dwellinghouse”* (Class D of Part 1, Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended)), alongside information supplied with the LDC application. It is the responsibility for those implementing relevant works to ensure other development does not subsequently render the certified works unlawful.

4. Ensuring Rights are Intact

- 4.1 In terms of the first step, no planning conditions were imposed upon condition 14/2877 that removed permitted development rights, though in any event, the permission has now lapsed. Furthermore, the property is not located in a Conservation Area, and no relevant Article 4 Directions are in force here.

- 4.2 In terms of the second step, Class D of Part 1, Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended), provides for *“The erection or construction of a porch outside any external door of a dwellinghouse”*. The proposed drawing clearly displays that the proposed development solely involves a porch outside of an external door and thus falls within this Class. Indeed, tests relating to any other Classes are irrelevant and the proposal requires objective application of the law regarding a Class D Development only.
- 4.3 Indeed, because a porch can be erected outside ‘any external door’, the criteria are necessarily onerous, to ensure the porch provides nothing more than immediate protection to that door from the elements.
- 4.4 There is full confidence, therefore, that the property continues to enjoy the full range of permitted development rights afforded to it including Class D, subject to proper assessment of the relevant conditions and limitations imposed thereupon.

5. Limitations and Conditions

- 5.1 The proposed porch would be implemented pursuant to Class D of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is subject to the conditions and limitations set out at Sections D.1 of the statute. These limitations and conditions are assessed in detail at Appendix A and are found to be wholly satisfied.
- 5.2 During consideration of the withdrawn LDC application, officers asserted that the porch would not be permitted development on account of its roof attaching to a non-original feature (i.e., the mono-pitch roof added to the existing front projection to the dwelling). We fundamentally disagree with this approach.
- 5.3 Whereas Class A permitted development specifically refers to *“the original dwellinghouse”* as the basis for assessment, Class D simply refers to *“any external door of a dwellinghouse”* (our emphasis) (Part 1, Schedule 2 of the Town & Country

Planning (General Permitted Development) (England) Order 2015 (as amended)), regardless of whether that door is part of the original dwellinghouse, or subsequently extended part. Thus, to require a porch to attach to the original part of the dwellinghouse only would constitute a test beyond the scope of Class D and would be bound to fail upon any challenge thereto.

- 5.4 This matter was specifically considered in planning appeal DCS: 400-033-310, in which the Inspector confirmed that the local planning authority had been wrong to refuse to grant a lawful development certificate where a proposed porch would attach to an already extended part of the building. The Inspector confirmed that the proper test was whether the porch was a distinct and separate operation serving an external door. The Inspector reasoned that Class D is a standalone permitted development right and that nothing about it allows application of Class A conditions and limitations.
- 5.5 It is self-evident that the proposed development comprises nothing more than a porch; and the Council agrees, having registered the earlier application for ostensibly the same development. Accordingly, the proposal falls to be assessed under Class D alone and a refusal on the basis of any other criteria, however so introduced, would result in an appeal.

6. Summary Conclusions

- 6.1 The proposed porch is permitted development, falling wholly within the scope of permitted development rights, which are demonstrated to be fully intact. All relevant limitations and conditions are observed and satisfied respectively, allowing a Lawful Development Certificate to be issued confirming the lawfulness of the works shown on the submitted drawings.

Class D: Porches

D.1 Development is not permitted by Class D if:

Ref	Development Not Permitted	Compliance
(a)	permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P , PA or Q of Part 3 of this Schedule (changes of use);	The property did not become a dwellinghouse through a change of use.
(b)	the ground area (measured externally) of the structure would exceed 3 square metres;	The ground area of the structure will remain below 3 square metres.
(c)	any part of the structure would be more than 3 metres above ground level;	The height of the structure will be below 3 metres above ground level.
(d)	any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway; or	The porch is not within 2 metres of the boundary of the curtilage with a highway.
(e)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	The property is not a detached block of flats and was not built under Part 20 of Schedule 2.