

Description

An Application under Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawful Development for existing raised decking area at side.

The application has been made on the basis that the raised decking area has been in place and used for a period of 4 years or more, thus rendering the construction of the decking area immune from planning enforcement action in accordance with the time limits set under Section 171B(3) of The Town and Country Planning Act 1990

Relevant Planning History

None

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None**Unitary Development Plan and Policies**

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Issues and Analysis

The onus is on the applicant to show by way of evidence that the building to which the application relates has been in place for 4 years or more making it immune from planning enforcement action, thus making the building lawful. The legal test for evidence is on the "balance of probabilities" which in practice means that unless the authority has in its possession evidence that is clearly contrary to that submitted it must grant a certificate. Evidence submitted does not need to be corroborated by third parties.

Evidence supplied by applicant

Plans provided from building control application in 2011 showing raised decking area in place. Receipt for bifold doors which dated 2009. Electrical certificate from 2009 referencing lighting for decking area.

The evidence shows that on the balance of probability the raised decking has been in place for at least 4 years from the date of application and is therefore lawful.