

Design Statement

34 Meadowbank, Primrose Hill, London, NW3 3AY

10 February 2025

The applicant seeks to be granted a Certificate of Lawful Development: Class D. The erection or construction of a porch outside any external door of a dwellinghouse.

The proposed porch meets all of the requirements set out in the provisions for Class D and as such should be granted the certificate. These are set out below.

Development is not permitted by Class D if–

(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 dwellinghouse has not had a change of use.

(b) *the ground area (measured externally) of the structure would exceed 3 square metres;*

The area of the porch measured externally measures 2.6 square metres.

(c) *any part of the structure would be more than 3 metres above ground level;*

No part of the porch is more than 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*

It is considered that the principal elevation is the front elevation that fronts onto a pedestrian alley way extending from 32 to 39 Meadowbank – not a public highway. This was noted in the case officer’s report for the planning application 2009/0520/P for the same site (34 Meadowbank). The report read:

“The alleyway which runs along the front of the property is for pedestrian use only and does not allow vehicular access. It provides a pedestrian link from one part of Meadowbank (private road) to another part of Meadowbank (private road) which forms a cul de sac. It therefore does not provide a connection or link between what appeared to be public highway.

The term highway is not defined in the GPDO. The common law meaning of a highway is a way over which all members of the public are entitled to pass. The legal status of the footpath is not a public adopted highway but a private road.

An appeal against the refusal of a lawful development certificate at Claygate Surrey in November 2007 for the erection of 1.5m high gates next to an estate access road provides relevant information for this decision. In allowing the appeal the planning inspector states “The private road extends down to the point where it meets Foley Road. There is therefore no right for members of the public to pass and repass along the estate road. Whilst they may choose to do so, they have no right to do so and consequently I do not consider that the estate road is a highway in the sense of the meaning described in common law.” She adds “I have also had regard to the fact that the estate road is a cul-de-sac serving 5 dwellings and a private garage. It is not comparable with some private roads I observed in the area which provide a connection or link between what appeared to be public highways.

The public would therefore have no reason to enter the estate road unless they were visiting one of the properties. This circumstance has parallels with the appeal decision in Barnet mentioned above which concerned a cul-de-sac accessing 5 dwellings. This situation reinforces my view that the estate road is not a highway.”