
Appeal Decision

Site visit made on 22 November 2016

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 December 2016

Appeal Ref: APP/Q5300/C/16/3149616
39 St. Edmunds Road, London N9 7PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Cemal Kara against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The enforcement notice, numbered ENF/15/0876, was issued on 5/04/2016.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a single storey rear extension (outlined in blue on the attached plan for identification purposes) to the rear of the Premises in excess of the parameters set out within Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The requirements of the notice are to:
 - Remove the single storey rear extension (outlined in blue on the plan for identification purposes)
 - Remove all resulting materials from the Premises
 - OR
 - Reduce the depth of the single storey rear extension (outlined in blue on the attached plan for identification purposes) in order to comply with the parameters set out within Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015
 - Remove all resulting materials from the Premises.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural matters

2. The site visit was arranged as an accompanied visit but the Council did not attend, and as a result, I decided to undertake the inspection visit as an access only visit. The Council was given an opportunity to comment on the changed procedure but no response was received, and as such, I consider no prejudice would arise in my dealing with the appeal on this basis.

Ground (c) appeal

3. The appellant asserts that the extension is lawful under condition A4 Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 Order).
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4. The appeal relates to a rear extension to a terrace property which projects some 3.5m out from the original rear wall of the house. Planning permission was sought for the rear extension as built and this was refused permission on 21/05/2014.
5. The alleged development exceeds the permitted limitations of Article 3, Schedule 2, Part 1, Class A(f)(i) of the 2015 Order, since it exceeds 3m beyond the rear wall of the original terrace dwellinghouse. The conditions of paragraph A.4.(1) of the 2015 Order only applies where the development permitted by Class A exceed the limits in paragraph A.1(f) and that prior approval was sought, and approved, or was not required.
6. Prior approval was required for the development before beginning the development. By virtue of the fact that planning permission was refused for the same development in 2014 that approval was sought and refused when the rear extension was substantially complete. The development had begun before approval was sought and that approval was refused.
7. I therefore consider that the alleged development does not fall within the limitations of Article 3, Schedule 2, Part 1, Class A of the 2015 Order. Planning permission is required for the development and no record of planning permission has been approved for the extension. There has been a breach of planning control and the appeal on ground (c) fails.
8. I conclude that the appeal should not succeed. I shall dismiss the appeal and uphold the enforcement notice.

Iwan Lloyd

INSPECTOR