
Appeal Decision

Site visit made on 21 February 2017

by Mr N P Freeman BA(Hons) DipTP MRTPI DMS

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

Decision date: 13 March 2017

Appeal Ref: APP/G5750/C/16/3159760

75 Napier Road, Stratford, London, E15 3DN

- 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 David Adewole against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice, numbered 16/00187/ENFNOT, was issued on 19 August 2016.
 - The breach of planning control as alleged in the notice is "Without planning permission the erection of an outbuilding".
 - The requirements of the notice are:
 1. Demolish the outbuilding (as shown edged yellow on the photograph attached at Appendix 1).
 2. Remove from the site all debris arising from compliance with the above step.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
-

Ground (c)

1. The appellant contends that the outbuilding or shed in question is a prefabricated structure similar to others in the vicinity and is "permitted development" and therefore not a breach of planning control. The Council counter this assertion on the basis that the appeal property is a maisonette within a block of such properties and as such it does not benefit from permitted development rights under the terms of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
2. The GPDO does give rights under Class E of Part 1 of Schedule 2 for the erection of buildings incidental to the enjoyment of dwellinghouse. This would include the type of shed or outbuilding in this case. However such rights only apply to dwellinghouses as so defined and the relevant interpretation is found in Article 1 of the GPDO which states a "dwellinghouse"- *"does not include a building containing one or more flats or a flat contained within such a building"*. The same article also defines a flat as *"a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally"*.
3. I consider that the appeal property being part of a 4 storey building of purpose-built flats or maisonettes comes within the latter category – that is a flat as so defined – rather than a dwellinghouse – as so defined. Such a finding is

consistent with that of my colleague who dealt with an appeal relating to the same property in March 2014¹. Although he was dealing with an enforcement appeal concerning rear extensions and a front porch the same test of whether the property constituted a dwellinghouse for purposes of Part 1 of Schedule 2 of the GPDO had to be considered. He concluded as I do that it is not and hence cannot benefit from the "permitted development" rights contained in that part of the Order.

4. Given this finding and in the absence of any express planning permission having been granted for the development in question I conclude that there has been a breach of planning control. Consequently there is no success on this ground of appeal.
5. I have taken account of the points raised by the appellant on matters of merits but as there is no ground (a) or deemed planning application before me they do not come into consideration. The appellant may wish to pursue this by virtue of a planning application but that is a matter for him to consider and for the Council to determine, should an application be made, in the first instance.
6. For the reasons given above I consider that the appeal should not succeed.

Decision

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

N P Freeman

INSPECTOR

¹ Ref: APP/G5750/C/13/2204027 – decision dated 28 March 2014