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## Appeal Decision

Site visit made on 8 October 2019

**by AJ Steen BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 November 2019**

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**Appeal Ref: APP/G5750/C/19/3220241**

**Land at 39 New Barn Street, Plaistow, London E13 8JZ**

- 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 Act).
  - The appeal is made by Mr Leslie Wheeler of Jet Bond against an enforcement notice issued by the Council of the London Borough of Newham.
  - The enforcement notice was issued on 7 December 2018.
  - The breach of planning control as alleged in the notice is without planning permission the placing of two shipping containers on the land.
  - The requirements of the notice are:
    1. Remove the shipping containers (in the approximate location as shown edged in blue on the attached plan, and as shown edged in yellow on the photograph attached at Appendix 1) from the land.
    2. Remove from the site all debris arising from compliance with the above step.
  - The period for compliance with the requirements is three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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### Decision

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

### Preliminary Matters

2. I understand that there have been two shipping containers on top of one another to the rear corner of the yard at 39 New Barn Street that have become lawful by the passage of time. The enforcement notice seeks the removal of two other shipping containers that are located closer to the access from Elkington Road.

### The Appeal on Ground (c)

3. An appeal on ground (c) is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. On this ground of appeal the onus is on the appellant to prove, on the balance of probability, that there is no breach of planning control.
4. The Council consider that the shipping containers subject of this enforcement notice constitute buildings for the purposes of planning control. Taking account of well-established case law, I agree that is the case, and the appellant does not argue otherwise. As such, I find that they constitute “development” as defined by section 55 of the Act, and thereby require planning permission.

5. The appellant states that one of the storage containers was located in the yard to the rear of 39 New Barn Street for a substantial number of years, but was removed for a period of around 12 months around three to four years ago. The replacement container was placed with another container above.
6. However, no evidence has been submitted by the appellant to demonstrate that they have become lawful through the passage of time. Moreover, an appeal on ground (d), that it was too late to take enforcement action, has not been made.
7. For these reasons, I conclude on the balance of probabilities that the two shipping containers subject of this appeal are development as defined by section 55 of the Act and require planning permission. Since no planning permission has been granted for the development it constitutes a breach of planning control. Consequently, the appeal under ground (c) must fail.

### **Conclusion**

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

*AJ Steen*

**INSPECTOR**