



Appeal Decision

Site visit made on 28 November 2019

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: **14 January 2020**

Appeal Ref: APP/G5750/C/19/3226992

45 Sixth Avenue, Manor Park, London E12 5PP

- 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 Anwar Miah against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 20 March 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a porch.
 - The requirements of the notice are:
 1. Demolish the porch (as shown edged in yellow on the photograph attached at Appendix 1) and return the front elevation of the property to the form prior to the unauthorised works being undertaken.
 2. On completion of step 1 above, remove all materials and debris from the site.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground 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.

The appeal under ground (c)

2. This ground of appeal is that there has not been a breach of planning control. The onus is on the appellant to make out their case. Section 57 of the Town and Country Planning Act 1990 states that planning permission is required for the carrying out of any development of land. A breach of planning control comprises the carrying out of development without the required planning permission.
3. The appellant's argument is based upon his interpretation of Schedule 2, Part 1, Class D of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). The appellant considers that as the porch is less than 3 square metres it benefits from permitted development. Whilst Class D does refer to the grant of planning permission for the erection or construction of a porch outside any external door of a dwelling house, this is subject to limitations.
4. D.1 states that development is not permitted by Class D if (a) the ground area measured externally of the structure would exceed 3 square metres; (b) any part of the structure would be more than 3 metres above ground level or (c)

any part of the structure would be within 2 metres of any boundary between the curtilage of the dwellinghouse and a highway.

5. Measurements taken at the site visit indicate that the distance from the front of the porch to the front wall adjoining the pavement is just under 1.3 metres which is less than the two metres distance required. Irrespective of the ground floor area or the height of the porch, the development cannot therefore benefit from permitted development rights granted under Class D as the development does not meet all the limitations set out in Class D.1.
6. The porch does not therefore benefit from planning permission granted by the GPDO. As such, there has been a breach of planning control and the appeal must therefore fail.

Conclusion

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

E. Griffin

INSPECTOR