



Appeal Decision

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2020

Appeal Ref: APP/Z4718/C/19/3238559

109 Enfield Drive, Carlinghow, Batley, West Yorkshire WF17 8DR

- 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 Gary Lee against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The enforcement notice was issued on 26 September 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission:- The unauthorised erection of raised timber decking and walkway, wooden balustrades erected to 3 sides of the garage roof and wooden staircase.*
 - The requirements of the notice are to remove the raised timber decking and walkway, wooden balustrades erected to 3 sides of the garage roof and the wooden staircase.
 - The period for compliance with the requirements is 8 weeks.
 - 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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The appeal on ground (c)

1. In order to succeed on this ground, the appellant must show that no breach of planning control has occurred (for example because permission has been granted, or it is 'permitted development'). The appellant refers to works undertaken to remove elements of the development following the service of the enforcement notice; however, the relevant question is whether development in breach of planning control had taken place when the notice was issued.
2. The Town and Country Planning (General Permitted Development) (England) Order 2015 grants a general permission for certain development as set out in the Order. However, the construction or provision of a verandah, balcony or raised platform in the curtilage of a dwellinghouse is not permitted by the Order. The development, described in the notice as 'raised timber decking', constitutes a raised platform. Express planning permission was therefore required, but had not been granted. Therefore the appeal on ground (c) fails.
3. Notwithstanding the Council's stated reasons for issuing the notice, the purpose of its requirements is to remedy the breach of planning control. As the development as a whole required permission, it follows that no lesser steps, other than those set out in the notice, would achieve this purpose. I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Formal Decision

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

Laura Renaudon

INSPECTOR