



Appeal Decision

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 April 2022

Appeal Ref: APP/C4615/C/21/3285960

Land known as 4 Hamble Close, Pensnett, Brierley Hill, Dudley DY5 4QJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Crispen Munemero against an enforcement notice issued by Dudley Metropolitan Borough Council.
 - The notice was issued on 13 October 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last four years the unauthorised erection of a single storey front extension.
 - The requirements of the notice are to: i) demolish the single storey front extension; ii) make good any damage caused to the existing building as a result of the above (demolishing the single storey front extension); iii) return the front elevation to its appearance prior to the unauthorised development and to ensure that all the materials used match those used in the existing building; and iv) remove from the land lawfully all building materials and debris arising from compliance with the above steps.
 - The period for compliance with the requirements is: 2 (two) 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 (the Act). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

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

Preliminary matters

2. It has not been necessary to carry out a site visit as, in this particular case, where all the information needed is included with the application and appeal documents, a decision can be reached on the papers.

The appeal on ground (c)

3. This legal ground of appeal is that the matters alleged do not constitute a breach of planning control. The onus of proof in ground (c) is upon the appellant, and the test of the evidence is on the balance of probability.
4. The planning merits of the matter alleged do not fall to be considered under an appeal on this ground.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) by way of Article 3, grants planning permission for certain types of development set out within the schedules and classes it contains. Schedule 2, Part 1 of the GPDO grants permission for development within the curtilage of a dwellinghouse, subject to specified conditions and limitations. Within Part 1, Class A allows for the enlargement, improvement or other alteration of a dwellinghouse and Class D allows for the

erection or construction of a porch. Whilst the appellant claims what has been built is a porch, the allegation refers to the breach of planning control as a single storey front extension. In these circumstances I shall consider the development against both Class A and Class D of the GPDO.

6. Class D allows for the erection or construction of a porch outside any external door of a dwellinghouse subject to, and relevant here, that the ground area (measured externally) of the structure would not exceed 3 square metres and that any part of the structure would not be more than 3 metres above ground level.
7. The final comments provided by the appellant's agent confirm that the porch extends 1m from the wall, and is 3m wide, and that they consider it to be in accordance with the requirements of Schedule 2 Part 1 Class D of the GPDO. However, they consider that the works are not permitted under that section of the GPDO because the porch has not been constructed outside an external door of the dwellinghouse.
8. In such circumstances, the appellant's agent is correct. The GPDO does not define "porch" but, when applying its ordinary meaning, it would be a small, covered structure positioned at a doorway entrance. The GPDO stipulates that, to benefit from permitted development, a porch is to be "outside any external door of a dwellinghouse". The development is thus not permitted under Class D of the GPDO.
9. Turning to Class A, the development is attached to the front of the house and consequently would be caught by A.1(e)(i) which explains that development would not be permitted if the enlarged part of the dwellinghouse would extend beyond a wall which forms the principal elevation of the original dwellinghouse.
10. "Principal elevation" is described¹ as being, in most cases, the part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. The development is thus not permitted under Class A of the GPDO.
11. The appellant has referred to other houses within the neighbourhood which have similar additions. Whilst this may be the case, in the absence of an appeal on ground (a) I am not able to consider whether these would be material considerations for a judgement on whether the development is acceptable in planning terms.
12. To conclude on this legal ground of appeal, the extension is development which does not benefit from planning permission granted by the GPDO. Since no planning permission exists for the development, it constitutes a breach of planning control.
13. The appeal on ground (c) therefore fails.

S A Hanson INSPECTOR

¹ Permitted development rights for householders Technical Guidance Sept 2019 Ministry of Housing, Communities and Local Government