



Appeal Decision

Site visit made on 15 January 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/N5090/C/23/3314876

Land at 1 Ramsey Close, London NW9 7DW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Edmaid Alanizee against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 13 December 2022.
 - The breach of planning control as alleged in the notice is the construction of a single storey rear extension in breach of condition (a) of Part 1, schedule 2 of the General Permitted Development Order 2015 which states: 'the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse'.
 - The requirements of the notice are to:
 - 1 Demolish the single storey rear extension of the property.
 - 2 Remove all constituent materials from the works listed in 1. above from the property.
 - The period for compliance with the requirements is four 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. It is directed that the enforcement notice is corrected by:
 - (1) the deletion of the words *in breach of condition (a) of Part 1, schedule 2 of the General Permitted Development Order 2015 which states: 'the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse',* in section 3 of the enforcement notice (the matters which appear to constitute the breach of planning control).
2. Subject to the correction, the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. Article 3 Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) relates to development within the curtilage of a dwellinghouse and grants planning permission for the enlargement, improvement, or other alteration of a dwellinghouse, subject to conditions and limitations.
4. Permitted development rights only apply when the development fully accords with the conditions and limitations set out in the Order. In this case it is

evident from the Council's submission that the extension would not comply with the condition at A.3.(a) that is, the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

5. Since the extension does not comply with the condition at A.3.(a), it would not constitute permitted development. The breach of planning control that has occurred is therefore the construction of a single storey rear extension.
6. Although the allegation is worded to suggest a breach of condition, the notice references section 171A(1)(a) and the four-year time limit, so it is evidently not intended to allege a breach of condition.
7. I shall correct the allegation to reflect that the breach of planning control is the construction of a single storey rear extension. Since this neither reduces or enlarges the scope of the breach or requirements there is no injustice caused.

The appeal on ground (c)

8. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
9. Whilst it was evident at my visit that the appellant has, since the notice was issued, complied with the requirements, the appropriate time period for the consideration of a ground (c) appeal is at the time when the notice was issued.
10. The appellant's case is limited and is essentially made on the basis that their housing association did not make them aware that planning permission was required and gave them permission to build the extension – letters from the housing association are provided to support this.
11. The appellant has not sought to demonstrate that the extension does not constitute operational development nor, that the extension benefits from deemed or express planning permission. As already stated, since the extension would not comply with condition A.3.(a) of Part 1 Class A of the GPDO, it would not constitute permitted development.
12. Accordingly, since the development is not development that is permitted by any development order and there is no record of planning permission having been granted for it, the appeal on ground (c) fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Felicity Thompson

INSPECTOR