
Appeal Decision

Site visit made on 23 January 2024

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2024

Appeal Ref: APP/Q1445/C/23/3324371

109 Rotherfield Crescent, Brighton BN1 8FH

- 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 Gergis Yagoub against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice was issued on 23 May 2023.
- The breach of planning control as alleged in the notice is the construction of a part wooden and part UPVC clad rear extension.
- The requirements of the notice are to remove the part wooden and part plastic clad rear extension and make good the revealed brick wall.
- The period for compliance with the requirements is 16 (sixteen) weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (c)

1. The ground of appeal is that those matters alleged in the Notice do not constitute a breach of planning control. In this case the appellant contends that the extension is a temporary structure which has replaced a canopy.
2. The extension is physically attached to the host dwelling including roof joists which are attached to the main building. It is of a size and construction that cannot be moved without it being dismantled by a builder or someone with similar skills and therefore it is reasonable to conclude that it is permanent.
3. Class A, Part 1, Article 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) gives permission for the enlargement, improvement or other alteration of a dwellinghouse. However, development is not permitted if it fails to meet a set of criteria and conditions.
4. The appeal property is constructed of brick external walls with a tiled roof whereas the extension incorporates timber with UPVC cladding. As such the materials used in the external work are not of a similar appearance to those used in the construction of the exterior of the existing dwelling and the development fails to meet condition A.3(a) of Class A.
5. In addition, development is not permitted if, under A.1(j):

"the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would (i) exceed 4 metres

in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse”;

and (ja)

“any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j)”;

6. At my site visit I observed that the extension the subject of the Notice is physically attached to an existing extension that extends beyond a side wall of the original dwellinghouse. According to the limitations set out in the GPDO, when adding a new extension which is connected to an existing one, the total enlargement must not exceed half the width of the original dwellinghouse. The total enlargement at the appeal property, incorporating both the original extension and the new one is more than half the width of the original house. Therefore, the limitations set out in the GPDO are exceeded and the extension does not constitute permitted development.
7. I have taken account of the comments submitted by the appellant, including his family’s personal circumstances, but my determination of an appeal under ground (c) is limited to whether the extension constitutes a breach of planning control and I cannot take account of the planning merits of the development.

Formal Decision

8. For the reasons given above I conclude that the appeal should not succeed. The appeal is dismissed and the enforcement notice is upheld.

A A Phillips

INSPECTOR