



Appeal Decision

Site visit made on 20 May 2025

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2025

Appeal Ref: APP/Q1445/C/24/3339451

Land at Unit 4, Planet House, 1 The Drive, Hove BN3 3JE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Alex Haji against an enforcement notice issued by Brighton and Hove City Council.
 - The notice was issued on 23 January 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a single storey extension attached to the front of the building.
 - The requirements of the notice are: 1. Remove the unauthorised single storey structure attached to the front of the building. 2. Reinstate shop front to its former design, materials and appearance prior to the unauthorised works taking place.
 - The period for compliance with the requirements is ten months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Act.
-

Decision

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

Reasons

2. The appeal is under ground (c) only. For the appeal to succeed the appellant needs to show, on the balance of probabilities, that the single storey extension erected to the front of the building is not in breach of planning control.
3. An openable enclosure has been erected around what was previously an outside terrace adjacent to the highway, in place of a shopfront. It is claimed the works comprise 'permitted development' authorised by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and that they are temporary.
4. Section 57 of the Act states that, subject to the provisions of that section, planning permission is required for the carrying out of any development of land. Section 55 of the Act provides the relevant meaning of 'development', which includes the carrying out of building, engineering, mining or other operations in, on, over or under land. Case law¹ identifies three primary factors as decisive of what is a building for the purposes of ascertaining whether development requiring planning permission has been carried out: size, permanence, and physical attachment.
5. A significant period has passed since the extension was erected, and there is no evidence it has been moved. Although it has not been explained how the extension was completed or whether it is fixed to the ground, the structure is clearly a substantial feature and of substantial weight. It directly abuts the front

¹ *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102

elevation of the building, projecting forwards and enclosing a former outside terrace. It therefore has the appearance and characteristics of an extension to the building, which is expected to be long-lasting, with a significant degree of permanence.

6. The evidence indicates that roof and window panes are capable of being removed, but this does not reduce the permanence of the structure taken as a whole. Notwithstanding the appellant's claim that the structure is temporary, I find that it is a building and that its erection comprised building operations for the purposes of the Act. Considering all the relevant points made by the parties alongside the above case law, the building constitutes development requiring planning permission.
7. The appellant has not explained how the development may comprise 'permitted development' authorised by the GPDO, and I am not aware of any planning permission the development may benefit from. In particular, I note that the development does not accord with limitations A.1(c)(ii), (e), (g) and (h) of Class A, Part 7, Schedule 2 of the GPDO on account of it being within 2 metres of the boundary, within a conservation area, and extending beyond the front of the building in place of a pre-existing shopfront.
8. The appellant claims they were told by the Council, their landlord, and the company who designed the extension that it would not require planning permission. It is also claimed that the company has carried out more than ten other extensions like this within Sussex without obtaining express planning permission or experiencing any planning issues. Be that as it may, I have found that the works carried out in this particular instance comprise development requiring planning permission. In the absence of any planning permission for the development it is in breach of planning control.
9. The appeal under ground (c) must therefore fail.

Conclusion

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

L Douglas

INSPECTOR