

PLANNING INSPECTORATE APPEAL DECISIONS		
20188032A	235 GREEN LANE ROAD	
Proposal:	UNAUTHORISED CONSTRUCTION OF PORCH, CANOPY AND PILLARS TO FRONT OF HOUSE	
Appellant:	Mrs Asmita Gadhia	
Appeal type:	Enforcement Notice Appeal	
Appeal received:	2 May 2018	
Appeal decision:	Dismissed	
Appeal dec date:	20 February 2019	
SMC	AREA: E	WARD: North Evington



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Summary

- Enforcement notice was issued in respect of the construction of the porch and canopy
- Appeal was made that there was not a breach of planning control, the steps were excessive and the compliance period was too short.
- The appeal has been dismissed and the notice upheld
- Enforcement notice is now in effect and compliance due 17 April 2019.

The site

The site is a semi-detached house in an area which is predominately residential in character. The property is situated at a prominent location on the corner of Green Lane Road and Rufford Street. There are houses surrounding the property and a new residential development to the north.

The Enforcement Notice

In May 2018 an enforcement notice was issued in respect of construction of the porch and canopy to the front of the property. The notice required the following step to be taken;

1. Demolish the front extension comprising of the porch, canopy and pillars and remove the demolished materials from the site.

The notice was issued for the following reasons;

1. It appears to the Council that the breach of planning control has occurred within the last 4 years.
2. The porch and the canopy, which is extending over the full width of the house located at a prominent location is a dominating incongruous feature in the street scene due to the width of the structure and inclusion of two pillars which do not relate well to the design of the existing house and other houses in the area. It has detrimental impact on the visual amenity of the host property and the street scene. Hence the development is contrary to paragraphs 56 and 64 of the National Planning Policy Framework, policy CS8 of the Leicester Core Strategy and policy PS10 of the City of Leicester Local Plan.

The Appeal Decision

The appeal was submitted under grounds (c) (f) and (g) which state that there was not a breach of planning control, the steps were excessive and the compliance period was too short. The appeal was dismissed and the enforcement notice upheld.

CommentaryGround (c)

When considering ground (c) the Inspector stated that the onus is on an appellant to show, on the balance of probabilities, that the matters stated in the notice do not constitute a breach of planning control and that it was unfortunate for the appellants that they based the planning of the front addition on the erroneous advice of a builder.

The inspector found that however the structure was interpreted, the GPDO is of no assistance to the appellants in the circumstances of this case and the development would not have been permitted development. Express planning permission would have been required. There is no evidence that such planning permission has been granted. The alleged development is therefore in breach of planning control and the appeals on ground (c) cannot succeed.

Ground (f)

The inspector noted that the manner in which the Council has prepared the enforcement notice, including the formulation of its requirements, indicates that its purpose is to remedy the breach of planning control in accordance with section 173(4) (a) of the Act. It is reasonable and not excessive to require that the unauthorised development be removed. This would remedy the breach and nothing more.

The inspector considered that it is not possible to disaggregate the various elements and there is no fully worked out alternative scheme submitted for consideration. In any event, upholding the notice would not prevent the appellants from doing what is lawful under householders' permitted development rights or from entering into further discussions with the Council about other ways forward. Therefore the requirements of the notice were upheld

Ground (g)

Under ground (g) the inspector stated that it is desirable that the breach of planning control is remedied without unnecessary delay in order to address the harm that arises from it. The Inspector took the view that the physical works required by the notice are relatively straightforward and should not take very long to complete. The costs of disassembly or demolition and removal are unlikely to prevent compliance and as The Council has the discretion to extend the compliance period, the Inspector found that the 2-month compliance period given in the notice was reasonable.

Conclusion

As all the grounds above were upheld the inspector dismissed the appeal. This appeal decision is welcomed as it reinforces the Council's stance that it is not unreasonable to require the total demolition of a structure if it does not benefit from planning permission. The enforcement notice is now in effect and the owners of the property have until 17 April 2019 to comply with it.