



Appeal Decision

Site visit made on 18 September 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/W4705/C/19/3225343
1222 Leeds Road, Bradford BD3 8LG

- 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 Ikram Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 28 February 2019.
 - The breach of planning control as alleged in the notice is: without planning permission, the siting of two timber clad storage containers, a green coloured storage container, a caravan and a van body on the land and the erection of a timber framed structure on the land, as shown in the photographs attached to the enforcement notice.
 - The requirements of the notice are: remove the timber clad storage containers, green coloured metal storage container, caravan, van body and timber framed structure from the land.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be amended by:

- a) The deletion of all the text in the allegation and the substitution of it by the following text:

'without planning permission, the material change of use of the land for storage purposes including the siting of two timber clad storage containers, a green coloured storage container, a caravan and a van body on the land and the erection of a timber framed structure on the land, as shown in the photographs attached to the enforcement notice.'

- b) The deletion of all the text in the requirements and the substitution of it by the following text:

- 1) *Remove the green coloured metal storage container, caravan, van body and timber framed structure from the land.*
- 2) *Remove the timber clad storage containers from the land.*
- 3) *Cease the use of the land for storage purposes.*

- c) The deletion of all the text in the period for compliance and the substitution of it by the following text:

The period for compliance with requirement 1) above is one month and the period for compliance with requirements 2) & 3) above is two months.

2. Subject to these amendments, the appeal is dismissed and the enforcement notice is upheld.

The enforcement notice

3. With regard to the wording of the notice, it alleges the 'siting' of a number of items. To reflect the definition of the term 'development' in s55(1) of the Act, and to be precise, the allegation should state a 'material change of use of the land to use for storage purposes including the siting' of the various items. It follows that the requirements of the notice should also include the cessation of the unauthorised use of the land. I am satisfied that these corrections do not cause any injustice, or make the notice more onerous.

The appeal on ground (e)

4. The ground of appeal is that the notice was not served as required by s172 of the Act. S172(2) of the Act provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants and sub-tenants.
5. Where the notice is required or authorised to be served on any person as an occupier of the premises in question, s329 of the Act makes provision for a notice to be delivered to some person on the premises in question, or to be affixed conspicuously to some object on those premises.
6. The Council have clarified that the business was closed at the time that they served the enforcement notice. As there was no letter box apparent at the premises, they state that they secured the appellant's copy of the notice in the entrance door. I have been provided with photographs showing that the notice was left in the corner of the door of the timber-clad structure.
7. The appellant states that he only found the copy of the enforcement notice when he was sweeping the forecourt of his premises. He contends that it was not served by hand but was left on the property where it was blown by the wind amongst some refuse. Whilst nobody was available at the premises to receive the notice in person, it is apparent that it was left at the appeal site, as required by the Act. If the notice got blown in the wind to a different position, then there may be some question as to how adequately it was affixed to the property.
8. Nevertheless, even if the notice was not correctly served, section 176(5) provides that failure to serve may be disregarded if the appellant has not been substantially prejudiced. In this case, the appellant has been able to submit an appeal against the enforcement notice and make written representations in support of his case through these appeal proceedings. It cannot, therefore, be said that he has suffered any prejudice as a result of any failure to comply with the rules concerning service. There is no suggestion that any other person may have been prejudiced. I conclude, therefore, that in the circumstances of this case, any failure in terms of service of the enforcement notice may be disregarded.
9. The Council state that the notice was also served on the landowner and other interested parties at a number of addresses in Bradford. I have been provided

with a list of these addresses, and I note that the appellant does not dispute the Council's evidence in this regard.

10. Consequently, the appeal on ground (e) fails.

The appeal on ground (g)

11. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant contends that the time scale of one month to remove all the development in question is unacceptable and unfair. He states that the removal of the items would require electricians, joiners and a specialist removal vehicle.
12. There appears to be no reason why the caravan could not be removed relatively quickly by towing it off the site. The metal storage container could be lifted on to a suitable removal vehicle, as could the van body if it cannot be towed. Although the appellant refers to the need for a specialist removal vehicle, he has not given any detailed explanation as to why it should take more than a month to organise such a vehicle to carry out the work.
13. The timber-framed structure appears to be a light-weight edifice that could also be dismantled and removed quickly. I am therefore satisfied that one month is sufficient for the removal of the caravan, the metal storage container, the van body, and the timber-framed structure.
14. The two timber-clad storage containers appear to have been in use as a food outlet, and so it is likely that services will need to be dealt with and made safe. This would require works beyond simple dismantling and removal of the items, and would need a range of contractors to be co-ordinated within the operation. The appellant has not specified a time scale that he considers would be fair and reasonable. However, given the likely additional complexity of dealing with the services on site, I consider that a compliance period of two months for the removal of the timber clad storage containers is reasonable.
15. To that extent, the appeal on ground (g) succeeds.

Conclusion

16. Subject to the variations outlined above, the enforcement notice is upheld.

Elaine Gray

INSPECTOR