



Appeal Decision

Site visit made on 4 October 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

Appeal Ref: APP/J4423/C/18/3218091

174 Lowedges Road, Sheffield S8 7LF

- 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 Steven Sperl against an enforcement notice issued by Sheffield City Council.
 - The enforcement notice was issued on 6 November 2018.
 - The breach of planning control as alleged in the notice is: without planning permission, the carrying out of operational development by siting a metal storage container at the land.
 - The requirements of the notice are: remove the unauthorised storage containers (as shown in the photograph appended to the enforcement notice) from the land.
 - The period for compliance with the requirements is 90 days.
 - The appeal is proceeding on the grounds 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 be amended by:
 - a) The deletion of the text '*a metal storage container*' from the allegation and the substitution of it by the text '*metal storage containers*'.
2. Subject to this amendment, the appeal is dismissed and the enforcement notice is upheld.

The enforcement notice

3. With regard to the wording of the notice, the allegation refers to a single storage container, whereas the requirements refer to plural storage containers. I saw on my site visit that two storage containers were in place and so, for clarity, I direct that the allegation be corrected to reflect this circumstance. I am satisfied that this correction does not cause any injustice, or make the notice more onerous.

Ground (c)

4. The appeal on ground (c) is on the basis that there has not been a breach of planning control since planning permission is not required.
5. The appellant states that he acquired the two containers for secure storage for household goods and motorbikes, due to the risk of crime in the area, and the associated difficulties in getting insurance. He contends that, as the containers are not in business use, planning permission for them should not be needed.

6. Section 55(1) of the 1990 Act says that 'development' includes the carrying out of building, engineering, or other operations. Such operational development comprises activities which result in some physical alteration to the land with some degree of permanence.
7. A building is defined by section 336 of the 1990 Act as including any structure or erection. The courts have held that three primary factors to establish what constitutes a building are (a) that it is of a size to be constructed on site, as opposed to being brought onto the site, (b) permanence and (c), physical attachment. No one factor is decisive.
8. The appellant confirms that the containers were delivered to the site. Furthermore, I saw nothing to suggest that the containers were attached to the land, and they appeared to have no apparent permanent base.
9. Nonetheless, they are substantial metal structures that are undoubtedly very heavy even when empty. Given their size and likely weight, such structures could not be moved at all easily, and not without some form of specialist lifting equipment. Therefore, although the appellant describes them as mobile, these circumstances indicate a significant degree of permanence, as does the storage use that the appellant describes.
10. Due to their size and scale, the containers also have a physical presence which alters the characteristics of the domestic curtilage of the dwelling. Instead of the previously open frontage, they add development where none previously existed. I saw that they are prominent in longer views of the property along the street.
11. I have had regard to Schedule 2, Part 1, Class E of the GPDO, which relates to the provision within the curtilage of a dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse. Development is not permitted if any part of the building or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse. In this case, it is clear that the containers occupy such a position in front of the principal elevation of No 174.
12. Taking these factors in combination, and in the absence of any substantive evidence to the contrary, I am satisfied that the containers amount to operational development for which planning permission is required. The appeal on ground (c) therefore fails.
13. It has been drawn to my attention that a number of other containers have been located in the wider area. I note also the appellant's willingness to apply wood cladding to his containers, or to paint them. However, neither of these considerations alter the fact that planning permission is required for the containers in this particular case.

Conclusion

14. For the reasons above, the appeal is dismissed, and the enforcement notice, as amended, is upheld.

Elaine Gray

INSPECTOR