
Appeal Decision

Site visit made on 29 October 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/W4705/C/19/3227541

Land at Horsley Street, Wibsey, Bradford

- 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 Baasit Zaman against an enforcement notice issued by the City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 19 March 2019.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use of the land to use for the storage of motor vehicles.
 - The requirements of the notice are: cease the unauthorised material change of use of the land for the storage of motor vehicles and remove all motor vehicles from the land.
 - The period for compliance with the requirements is 28 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. The appeal is dismissed, and the enforcement notice is upheld.

Procedural Matter

2. The address in the banner heading above is taken from the enforcement notice. The appellant gave their own address as the appeal site address on their appeal form. As the land is located off Horsley Street, I have used the address given on the enforcement notice as this best identifies the site.

The appeal on ground (c)

3. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
4. The appellant's case is that the land is 'classed as residential land/garden land' although no explanation was given about what is meant by 'classed', and that there are no more than four cars parked on the land which they consider is no different to having several cars parked on a driveway or garden.
5. The land is located between two relatively narrow streets in a residential area surrounded by houses. Based on my observations the land has no obvious connection or association with the residential curtilages of the houses which share a border with the land. Photographs taken by the Council in November 2017 when considering a planning application for the mesh fence which surrounds the land, show the land to be largely overgrown with rough

vegetation to the sides and edges and an irregular area of hardsurfacing through the middle of the land. Its appearance in the photographs is vacant and unused, not the more manicured and organised appearance that would be expected of residential or garden land. The appellant has provided no evidence to demonstrate nor do I consider that the land as a matter of fact and degree was residential or garden land.

6. Whilst I have no reason to doubt the appellant's assertion that before the fencing was erected the land was used by local residents for parking, the Council's allegation as set out in the notice relates to storage.
7. "Parking" and "storage" are separate and distinct uses. It is well established that parking is a materially different use from storage. Parking means leaving a vehicle while it is in current use, whether long or short term. It is a temporary cessation from when the vehicle is in motion and it is still in use when it is parked. Storage takes place when something is put away for a period of time because it is not needed, or its use is not contemplated in the short term. The appellant made no comments on this distinction.
8. The Council stated that the first complaint which they received in April 2018 referred to nine cars being stored on the land and that in August 2018 11 cars were stored on the land. The photographs taken by the Council in August 2018 show that the majority of the vegetation had been removed and the hard surface extended and at least 11 cars on the land. The appellant's use of the land has therefore resulted in a change to its character and appearance.
9. Overall, on the basis of the evidence before me I conclude that a material change of use consisting of the use for the storage of motor vehicles has occurred. The appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

Conclusion

10. For the reasons given above, I consider that the appeal should not succeed.

Felicity Thompson

INSPECTOR