



Appeal Decision

Site visit made on 25 February 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Appeal Ref: APP/Z4718/C/19/3236276

22 Ottiwells Terrace, Marsden, Huddersfield, West Yorkshire HD7 6HB

- 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 Richard Haworth against an enforcement notice issued by Kirklees Metropolitan Council.
 - The enforcement notice was issued on 14 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a metal cage and timber shed/structure.
 - The requirements of the notice are to wholly demolish the metal cage and timber shed/structure and remove all resultant debris from the land.
 - The period for compliance with the requirements is six weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

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

The appeal on ground (g)

2. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
3. The appellant's case is that they would like to extend the compliance period to 13 weeks. This is on the basis that they cannot afford to employ tradesmen to remove the cage and shed and consider that there is a health and safety risk associated with dismantling the development at this time of year due to the inclement weather and dark nights. Further, that the appellant wants to re-use the timber and re-instate the original wall.
4. The appellant submitted a retrospective planning application for the erection of the cage and shed which was subsequently refused by the Council on 19 July 2019, planning application reference 2019/62/90623/W. The appellant did not submit an appeal against this decision as he argues that the Council misled him in respect of the timescales.
5. However, in respect of the enforcement notice there is no appeal on any other ground other than ground (g), and therefore it has been virtually inevitable since the appeal was lodged that the enforcement notice would be upheld. Although I am aware that the appellant submitted a further planning application to the Council, that was for a materially different proposal and has in any event been refused. The appellant acknowledges that the existing cage and shed would have to be removed and notwithstanding weather conditions, it

seems that there has been nothing to prevent the appellant from undertaking steps towards compliance with the notice whilst waiting for the appeal to be determined.

6. Whilst I understand the appellant's position, it is necessary to weigh the competing private interests of the appellant and the public interest in respect of the harm to the character and appearance of the Marsden Conservation Area. Significant weight must be attached to this harm. Such harm should not be permitted to continue for any longer than absolutely necessary.
7. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision. On the basis of the evidence before me and my own site observations it seems there would not be any complex building operations involved in removing the cage and shed.
8. Consequently, on the basis of the above and given the time of year, I consider six weeks to be a reasonable period for compliance. The appeal on ground (g) therefore fails.

Other Matters

9. I have considered the appellant's comments regarding the actions of the Council and the advice given. However, this is a matter that is between the appellant and the Council and it is open to them, should they wish, to make use of the Council's own complaint procedure to resolve the matter.
10. Matters raised regarding land ownership and illegal parking have no bearing on the subject of this ground of appeal.

Conclusion

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

Felicity Thompson

INSPECTOR