
Appeal Decisions

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2020

Appeal A: APP/N3020/C/20/3244486

Appeal B: APP/N3020/C/20/3244487

Land at 293 Mansfield Road, Redhill, Nottingham NC5 8JE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Gagan Tuli (Appeal A) and Mrs Aditi Tuli (Appeal B) against an enforcement notice issued by Gedling Borough Council.
 - The enforcement notice was issued on 11 December 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of residential premises to a mixed use of residential and vehicle sales and associated vehicle storage.
 - The requirements of the notice are: 1) Permanently cease the use of the land for vehicle sales and other associated uses including the storage or parking of vehicles at the site unless the vehicles are ancillary to the residential occupation of the dwelling.
 - The period for compliance with the requirements is one calendar month.
 - The appeals are proceeding on the grounds set out in section 174(2) (b) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is dismissed and the enforcement notice is upheld.

Preliminary Matter

3. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that these appeals can be determined without the need for a physical site visit. This is because I am satisfied that I am able to reach a decision based on the representations and supporting information submitted by the main parties as a matter of course as part of the early stages of the appeal process. Both the appellants and the Council have agreed to the appeal proceeding on this basis.

Appeal on ground (b)

4. The main issue is whether as a matter of fact the Land was in use for vehicle sales and associated vehicle storage alongside the residential use. The burden of proof falls on the appellants to make out their case.

5. The appellants' case is that they had operated a part time car sales business from their previous residential property in Nottingham City and therefore when they moved to their new home at 293 Mansfield Road in February 2019 they believed planning permission would not be required to operate their small car sales business from their home on a part time basis. Moreover, following a number of conversations and discussions with the Council between March 2019 and the end of June 2019 the appellants accepted that they would no longer be able to carry out their car sales business from their home. They agreed to stop the storage of cars for sale from the Land and to cease all car viewings and test drives which had previously taken place from there.
6. The appellants do not dispute that the Land has been used for vehicles sales and storage. However, since July 2019 they state that they have not stored cars for sale at the premises or conducted viewing or test drives from their home. The Land at 293 Mansfield Road is now used solely as a private residence and not in a mixed use. This version of event is not however entirely consistent with that of the Council who observed activity related to vehicle sales after July 2019.
7. It is clear from the Council Officer's Report and the appellants' evidence, which includes invoices for the renting of car park spaces at other premises, that the appellants have sought to find alternative arrangements for the storage of vehicles for sale since the initial breach took place. However, the issue under consideration in a ground (b) appeal is whether the use for vehicle sales and associated vehicle storage has occurred at 293 Mansfield Road as a matter of fact. The planning considerations relating to the operation of the appellants' business from alternative premises is not a matter for my consideration in this appeal. However, by the appellants' own admission, as set out in the paragraphs above, there is no doubt that as a matter of fact the breach of planning control alleged in the notice has occurred on the site.
8. The appeals on ground (b) do not succeed.

Conclusion

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

Elizabeth Pleasant

INSPECTOR