



Appeal Decision

Site visit made on 11 May 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 May 2020

Appeal Ref: APP/M0655/C/19/3241566

Land to the rear of 107 Bridge Street, Warrington, Cheshire WA1 2HR

- 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 Mrs Nooshin Kazemipour against an enforcement notice issued by Warrington Borough Council.
 - The enforcement notice was issued on 6 November 2019.
 - The breach of planning control as alleged in the notice is the material change of use of a yard area to a metal reclamation yard with associated workshop buildings.
 - The requirements of the notice are a) Cease the use of the land as a metal reclamation yard; b) Remove from the land the two buildings associated with the metal reclamation use; and c) Remove from the land all associated materials, metals and machinery associated with the metal reclamation yard use.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is corrected by:
 1. the deletion of 'buildings' in section 3 of the notice and the substitution instead of 'building';
 2. the deletion of 'two buildings' in requirement b) in section 5 of the notice and the substitution instead of 'building'.
2. Subject to the corrections the appeal is dismissed and the enforcement notice is upheld.

Corrections to the enforcement notice

3. The breach of planning control refers to 'workshop buildings' and a photograph attached to the notice identifies the buildings. One is a freestanding structure within the yard area to the rear of 107 Bridge Street and the other is a lean-to structure attached to the rear of the building. The plan attached to the notice identifies the enforcement land with a red line. The freestanding building is within the red line but the lean-to structure is not. The notice has therefore been corrected by deletion, in the breach of planning control and the requirements of the notice, of reference by implication to the lean-to structure.
4. It is worth noting that the Council has accepted the Appellant's claim that the lean-to structure has only ever been used for personal storage. The notice, if it had not been corrected, would therefore have been varied in the same way.

Reasons

The ground (b) appeal

5. The Appellant made a retrospective planning application, dated 4 March 2019, for 'change of use at the rear of the property from car parking area to metal reclaiming yard' and it was indicated on the application form that the use started on 1 October 2018. The application was withdrawn on 2 September 2019 but the Council claims that the use of the land as a metal reclamation yard was ongoing about two months later on the date of issue of the enforcement notice. A photograph of a sign on the gate into the yard area advertising 'Warrington Car Parts' is undated and does not support the Council's claim.

6. The planning application justifies a conclusion that the change of use of the yard area to the rear of 107 Bridge Street to a metal reclamation yard had occurred. The reason for withdrawal of the planning application is not known but it is possible that it was withdrawn because the use of the land as a metal reclamation yard had ceased. However, the last known use of the yard area was as a metal reclamation yard and therefore, on the balance of probability and as a matter of fact, it must be concluded that the alleged breach of planning control has occurred. The ground (b) appeal thus fails.

The ground (d) appeal

7. The building on the land is, principally, two shipping containers joined together in tandem. The Appellant has submitted an invoice, dated 3 December 2013, which indicates that four containers were delivered to the yard area either on or shortly before that date. But an aerial photograph dated 24 March 2017 shows no containers in the yard area and another dated 19 April 2018 shows two containers in the yard area. On the balance of probability the two shipping containers were brought onto the land between those two dates. On the date of issue of the enforcement notice the building on the land had been in place for no more than about two years and eight months and is not therefore immune from enforcement action. The ground (d) appeal thus fails.

The ground (f) appeal

8. The cessation of the unauthorised use of the land is not excessive and, in any event, has occurred. Evidence indicates that the building was established to support the change of use of the yard area to a metal reclamation yard. The removal of the building and all items associated with the metal reclamation use is not therefore excessive. The ground (f) appeal thus fails.

The ground (g) appeal

9. The constraints mentioned by the Appellant in support of her ground (g) appeal are no longer relevant and she has not suggested an alternative compliance period or stated any reasons why two months is inadequate. Two months is a reasonable period within which to demolish and remove the containers and the other insubstantial elements of the building. The ground (g) appeal thus fails.

John Braithwaite

Inspector