



Appeal Decision

Site visit made on 23 June 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2020

Appeal Ref: APP/N4720/C/20/3246626

58 Thirlmere Drive, West Ardsley, Wakefield WF3 1PQ

- 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 Mark Lupton against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 23 January 2020.
- The breach of planning control as alleged in the notice is the change of use of a residential dwelling to a mixed use of residential and vehicle hire and sales business.
- The requirements of the notice are:
 - Step One – Cease the use of the property for vehicle hire and sales business purposes and remove the address from any business marketing/advertisements.
 - Step Two – Remove all vehicles, parts and equipment used in connection with the vehicle hire and sales business from the land.
- The period for compliance with the requirements is twenty eight days.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (b)

1. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. In order to succeed on this ground it needs to be demonstrated that the change of use has not occurred. The planning merits of the case are not to be considered under an appeal on ground (b).
2. At the time of my site visit I observed several American cars parked within the curtilage of the appeal property, including four police cars. The Council contends that these are connected to on business known as '*Rent a Police Car*' and feature on a social media page called '*American Police Cars For Sale*', but the appellant argues that the alleged breach of planning control is exaggerated and over-stated and the site is clearly not a vehicle car hire yard and a parts warehouse as suggested.
3. The Council's evidence is that there has been a turn over of vehicles on the site and complaints about the activities taking place on site. The photographic evidence provided by the Council, extracts from social media pages and my own observations on site lead me to conclude that the property is being used to store vehicles that are available for hire or sale. Although there are no advertisements visible on site that does not mean a business activity is not taking place.

4. Whether a material change of use has occurred is very much an objective test and, in this case, it is clear to me that the uses occurring on site go beyond those which may be described as being incidental to the enjoyment of the dwellinghouse or ancillary to the principle use of the site for residential purposes. I understand that the appellant is a car enthusiast, but the parking/storage of vehicles associated with vehicle hire and sales, customer visits, demonstration of vehicle functions including sirens and loudspeakers and storage of associated motor vehicle parts and paraphernalia are all activities that change the character of the use from a residential dwelling to a mixed use of residential dwelling and vehicle hire and sales business.
5. It is evident to me that there is a dispute between the appellant and other local residents and interested parties, but this decision is based on the evidence before me. The appellant has not demonstrated that the change of use has not occurred.

Conclusion

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

Formal Decision

7. The appeal is dismissed and the enforcement notice is upheld.

A A Phillips

INSPECTOR