
Appeal Decision

Site visit made on 10 June 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2020

Appeal Ref: APP/W4705/C/19/3238773

Land at 603 Thornton Road, Bradford BD8 0BL

- 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 Mohammed Ahmed of Adams Tyres against an enforcement notice issued by the City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 17 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey metal structure on the land as shown in a photograph attached to the notice.
- The requirements of the notice are (i) demolish the unauthorised single storey metal structure (ii) removal all resulting materials from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant submitted a retrospective planning application for a "5 Year Temporary Planning Permission for A Tyre Repair Centre", planning application reference 19/03040/FUL which was subsequently refused by the Council and dismissed on appeal¹. That application was for the building, the subject of this appeal and it is against that background which I have considered this appeal.
2. Whilst ground (g) has not been pleaded, in light of the COVID-19 pandemic both main parties were given the opportunity to provide any comments in respect of the impact of the pandemic on the compliance period.

Appeal on ground (a) the deemed planning application

3. The main issue is the effect of the building on the character and appearance of the area.
4. The tyre repair centre consists of a single storey building with a mono-pitch roof, constructed from profiled metal sheeting powder coated dark brown. It is located to one side of a relatively substantial, predominantly stone building, in use as a kitchen and bathroom showroom, in a prominent location close to the junction of Cemetery Road and Thornton Road.
5. I observed at my site visit that Cemetery Road is mixed in character with a row of traditional stone-built terraces and a retail unit occupying an attractive

¹ APP/W4705/W/19/3239268

traditional building close to the appeal site. Further along Cemetery Road in a broadly southerly direction is a commercial area with some large modern business units. However, the appeal site is viewed in the largely residential context of Thornton Road.

6. There is a 1.8m high timber fence which surrounds the side and rear of the building however, the building projects above this fence by a reasonable height such that it is prominent in views from Thornton Road. It is also visible from Cemetery Road, from where the premises are accessed, particularly when approaching the junction with Thornton Road from a southerly direction.
7. Whilst the building may be lower than some surrounding buildings, as a result of its siting and utilitarian design and appearance, it appears as a discordant and conspicuous intrusion in the street scene when seen in context with the neighbouring traditional stone buildings and surrounding residential properties. As such it has a harmful effect on the character and appearance of the area.
8. The appellant stated that they would be willing to raise the height of the fence to 2.2m however, as the previous Inspector also found, this would not screen the building from all views, including those from Cemetery Road and in itself would appear as a dominant and incongruous feature within the street scene.
9. The planning application proposed a five-year temporary permission and the appellant stated that the building was built from metal sheeting as it was a temporary structure. However, no substantive explanation has been provided to support the temporary nature of the development, and whilst this could be controlled by a planning condition this would not outweigh the harm in respect of the building's appearance particularly given that five years is a relatively significant period.
10. The appellant provided photographs and I had regard at my visit to a number of commercial buildings located in the commercial areas further along and in the vicinity of Cemetery Road. However, those buildings are viewed in a commercial context and are not directly comparable with the appeal site which is viewed in context with the residential character of Thornton Road. As such, the existence of similar buildings in the locality does not alter my judgement.
11. I acknowledge that the business employs between three and five people, that there are other businesses in the surrounding area and environmental benefits associated with the recycling of tyres. However, there appears to be no in principle policy objection to the use and such benefits could be provided in a building of more appropriate design. Consequently, these matters are of limited weight in my assessment.
12. The appellant stated that they would be willing to remove the vinyl advertising banners from the building and fence. Whilst the removal of the advertisements would be of some benefit to the appearance of the area, this would not overcome the identified harm in respect of the appearance of the building.
13. For the reasons given above, the development is contrary to Policies DS1, DS3 and SC9 of A Local Plan for the Bradford District Core Strategy Development Plan Document Adopted July 2017. Together these policies seek to ensure that development proposals contribute to achieving good design and high-quality places in the urban environment. It also conflicts with the design aims of the National Planning Policy Framework.

14. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed.

The appeal on ground (g)

15. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
16. Whilst the appellant did not make an appeal on this ground, in light of the COVID-19 pandemic and as the business has a number of employees, both parties were asked for comment on the effect of the pandemic on the compliance period. However, no responses were received.
17. The building enforced against is causing harm to the character and appearance of the area and weight must be attached to this harm. Such harm should not be permitted to continue for any longer than absolutely necessary. However, in cases involving business uses, it is necessary to weigh the interests of the business, its employees and customers against the harm caused by the activities the subject of the notice.
18. The business employs a number of people and undoubtedly the closure of the business will have some impact on them.
19. The Council's decision to enforce was legitimate and in the public interest, given the harm caused by the development. I conclude, however, that even if account is taken of the need to remedy the harm, the notice does not afford the appellant reasonable time to look for alternative premises or for employees to find alternative employment. Looking at the case in the round, the requirement to demolish the building within one month would place a disproportionate burden on the appellant and their employees.
20. Taking all these matters into account I conclude that the period for compliance should be extended to three months. A period of three months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between the need to bring this harmful development to an end and the interests of the appellant and their employees. To this extent, the appeal on ground (g) succeeds.

Formal Decision

21. It is directed that the enforcement notice is varied by the deletion of one calendar month and the substitution of three months as the period for compliance. Subject to this variation I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR