
Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14th August 2020

Appeal Ref: APP/E2001/C/20/3248802
22 Foresters Way, Bridlington, YO16 6YN

- 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 Andrew Jagger against an enforcement notice issued by East Riding of Yorkshire Council.
 - The enforcement notice, numbered 20/00023/ENFORC, was issued on 19 February 2020.
 - The breach of planning control as alleged in the notice is without planning permission, material change of use of the Land from residential to a mixed use as residential and for the repair of motor vehicles and the salvage and storage of motor vehicle parts and the preparation of vehicles for sale and the sale of vehicles and vehicle parts.
 - The requirements of the notice are: 1. Cease the use of the Land for the repair of motor vehicles and the salvage of motor vehicle parts and the preparation of vehicles for sale and the sale of vehicles and vehicle parts; and 2. Remove all motor vehicles and vehicle parts from the Land other than those vehicles which are registered and taxed to and used solely as private vehicles by the lawful residential occupants of the Land.
 - The period for compliance with the requirements is within one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended ("the TCPA").
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Decision

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

Ground (f)

2. To succeed on this ground the appellant must show that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control, or as the case may be, to remedy any injury to amenity which has been caused by such a breach.
3. In this case the purpose of the notice is wider than solely to remedy the injury to amenity caused by the breach. It is clear from the reason for issuing the notice that the purpose encompasses wider planning concerns such as the use being contrary to Policy ENV1 of the East Riding Local Plan Strategy Document 2016 which seeks to safeguard the character and appearance of the area. The requirements on the notice also seek to achieve more than only the remedy of the injury to amenity. The notice requires the change of use to cease in order to remedy the breach of planning control. The notice therefore seeks to remedy both the breach of planning control and to remedy any injury to amenity caused by the breach.

4. Where the purpose of the notice is not solely concerned with remedying any injury to amenity, in the absence of an appeal on ground (a)¹ it is not permissible to consider the planning merits under ground (f). The appellant has stated that he has reduced the extent of the operations on the site and that this is not now causing harm to residential amenity, or in effect to the character and appearance of the area. However, this argument requires consideration of the nature of the use on the character of the street, matters of planning merit which fall squarely within the realm of planning policy and planning judgement. I am unable to consider these matters given the limited scope of this ground of appeal.
5. The appellant, in his final comments, also states that he believes that he has complied with the requirements of the notice and he is undertaking a hobby at the property rather than operating a business. The notice does not restrict any lawful use of the property, which includes a use incidental to the enjoyment of the dwellinghouse, but it will be a matter of fact and degree in each case as to whether a particular use is considered reasonable when considered in the context of the residential use.
6. I am satisfied that the requirements do fulfil the purpose of the notice without exceeding what is necessary to remedy both the breach of planning control and injury to amenity which has been caused. The requirements do not prevent the lawful use of the property which includes any use which is incidental to the enjoyment of the dwellinghouse. For these reasons I consider that the appeal on ground (f) should not succeed.

Zoë Frank's

INSPECTOR

¹ An appeal may be brought under Section 174(2)(a) of the TCPA: "that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the conditions or limitation concerned ought to be discharged."