



Appeal Decisions

Site visit made on 21 July 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal A Ref: APP/A2335/W/19/3239087

Ryelands Service Station, Owen Road, Lancaster LA1 2LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Rob Buffham of Euro Properties against the decision of Lancaster City Council.
- The application Ref 19/00853/FUL, dated 3 July 2019, was refused by notice dated 20 August 2019.
- The development proposed is a single storey rear extension.

Appeal B Ref: APP/A2335/C/19/3239151

Ryelands Service Station, Owen Road, Lancaster, Lancashire LA1 2LL

- 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 Rob Buffham of Euro Garages Ltd against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 12 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the siting of a storage container and erection of a timber screen fence.
- The requirements of the notice are:
 - (a) Remove the unauthorised container and timber screen fencing.
 - (b) Reinstatement of the land to its previous condition.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

Decisions

1. Appeal A is dismissed.
2. In respect of Appeal B, it is directed that the enforcement notice is varied by the deletion of two months and the substitution of four months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Procedural Matter

3. I noted from my site visit that the existing elevation plans do not show the advertisements or detailing on the rear elevation of the building. Neither party has raised this matter and consequently I have determined Appeal A on the basis of the submitted plans and my site observations.

Appeal A

4. The main issue is the effect of the proposed extension on the character and appearance of the area.

Reasons

5. The appeal property is a commercial service station located in a prominent location at the corner of the junction of Owen Road and Torrisholme Road, which I observed at my site visit to be busy roads.
6. The service station building is constructed from brick under a hipped roof, with a typical forecourt area and canopy to the front. Along Torrisholme Road adjacent to the appeal site are pairs of semi-detached houses with hipped roofs and relatively uniform appearance. They are set back from the road with low boundary walls to the front and follow a discernible building line. The appeal building although situated at a slightly lower ground level follows this building line.
7. The proposed extension would replace existing timber fencing which was subject of a previous planning application and subsequent appeal decision¹. It would be constructed from brick to match the existing building, with a flat roof and would enclose an existing container from views.
8. Notwithstanding its subordinate scale, the proposed extension would have a rudimentary appearance with an uncharacteristic flat roof form. Such design is more commonly associated with secondary elevations and whilst it would be located on the rear of the building, in this case the rear elevation is publicly prominent. As a result of its appearance and siting in a prominent location, beyond the established building line towards the public highway, it would appear as an incongruous and discordant feature within the overall street scene.
9. Whilst the proposed extension would represent an improvement when compared with the existing situation, this does not justify granting permission for a development which would cause harm.
10. The proposal includes landscaping in the areas around the proposed extension, with more substantial planting shown on either side of the extension and hedges/shrubbery to the front. Whilst it appears there would be room for some planting, given the relatively limited space the success of such planting is uncertain and in any event it would only partially screen views of the building. Consequently, notwithstanding that such landscaping would not be delivered in the absence of permission being granted, I find that the proposed landscaping would not overcome the identified harm.
11. I acknowledge that the service station provides a valued facility to the community. The appellant stated that the removal of the storage space may mean that a reduced range of products would be sold however, they provided no details about the range of goods that would no longer be stocked. Consequently, in the absence of detailed evidence and given the proximity to Lancaster city centre and a range of shops, this is a matter of little weight.
12. Furthermore, it seems unlikely, in the absence of substantive evidence that a reduction in the range of goods sold would result in a material increase in vehicle trips. Similarly, beyond generalised comments no substantive evidence has been provided regarding the potential reduction in revenue and impact on employment. Consequently, these are matters of limited weight in my assessment.

¹ APP/A2335/W/18/3214583

13. Overall, for the reasons given above, I conclude that the proposed extension would cause material harm to the character and appearance of the area contrary to Policy DM35 of A Local Plan for Lancaster District 2011-2031 Development Management DPD Adopted December 2014. This policy states that new development should make a positive contribution to the surrounding townscape and that the Council will expect development to contribute positively to the identity and character of the area through good design and appropriate siting.
14. It would also conflict with the design aims of the National Planning Policy Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Appeal B - 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. The appellant stated that the period of two months is inadequate to make provision for replacement of the space provided by the container. They requested a period of nine months in order to allow them to investigate alternatives and to remove the container in a timely manner.
16. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. Given the relatively straightforward nature of the fencing and container, I consider two months would be a reasonable period for their removal.
17. Nevertheless and whilst the appellant provided little substantive evidence about the impact on the business, 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 container and timber screen fence cause 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.
19. However, I note that the Council appear to have no in principle policy objection to an appropriately designed extension. Although, I acknowledge that there is no guarantee an alternative scheme will be found to be acceptable, I consider that it is reasonable given that there is likely to be some impact on the business and potentially it's employees, to extend the period to enable the appellant time to submit an alternative scheme and if approved implement such scheme.
20. Taking all these matters into account I conclude that the period for compliance should be extended to four months not the nine requested. A period of four 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.

Conclusion

21. For the reasons given above, I conclude that Appeal A should be dismissed.
22. In respect of Appeal B, for the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it.

Felicity Thompson

INSPECTOR