



Appeal Decision

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 19 January 2021

Appeal Ref: APP/J4423/X/20/3255654

Land adjacent to the former Bell Hagg Public House, Manchester Road, Crosspool, Sheffield, S10 5PX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Kay Marples against the decision of Sheffield City Council.
 - The application Ref: 19/03033/LU1, dated 5 September 2019, was refused by notice dated 17 March 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is B8 Storage.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. As the main issue in this case concerns the use of the site over the relevant 10 year period prior to the date of the application, it was not considered necessary to undertake a physical site visit. Accordingly, I have determined the appeal on the basis of the written representations, documents and photographs submitted by the parties.
3. The Council has pointed out that the application site includes a significantly larger area of land than that which might have been used for storage purposes. However, it is open to me to grant an LDC limited to the smaller, relevant area, should the evidence point me to that conclusion.

Reasons

4. In a case of this type, the Planning Practice Guidance (PPG) indicates that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
5. In this case, the onus is on the appellant to demonstrate that a storage use has been carried out continuously for more than 10 years prior to the application date i.e. from prior to 5 September 2009. The appellant states that the land

was used by her father, now deceased, for more than 35 years to store things he hoarded. It has never been used for business purposes. In support of this, she submitted to the Council at the application stage a series of Google aerial photographs dated 1999, 2002 and 2010, and also photographs of a caravan chassis, a storage hut and a BBQ/storage area.

6. The Council has indicated that the aerial photograph of 2002 is annotated to indicate a storage hut, a tractor with agricultural equipment, a skip, a garage a hardcore pile and a BBQ storage area and oil tank. The photograph of 2010 is annotated to show a storage hut, miscellaneous storage (container), a vegetable garden, stone and lumber storage, a BBQ area (now used as miscellaneous storage area) and an oil tank (obscured by hedge).
7. The appellant has submitted further aerial photographs of 2006, 2017 and 2018, annotated to show the remains of a garage, various miscellaneous storage and a caravan. A further series of Streetview images has also been submitted, together with details of an offer to buy the land in 1987 and a police report of an arson incident on the site in 2002.
8. Unfortunately, because of the very nature of aerial photographs, together with the small scale and poor definition of those submitted, it is difficult to interpret with any confidence what was actually present on site and whether the annotations are accurate. The Streetview images add little further clarification.
9. The Council records details of two enforcement site visits, in February 2018 and July 2019, during which it noted some of the items referred to above as being present, including the BBQ store, hut and caravan. The Council has also undertaken research of historic Google aerial photographs and Streetview images. The images have not been submitted but it is stated that, in 2008, the site contained no shipping containers but in 2011, it contained two such containers, one green and one rust coloured. It is not clear from this evidence whether either container was present on the relevant date in September 2009. I understand the green container has remained on site but the rust coloured one was replaced by a yellow one, which itself has now been removed.
10. The Council understood the green container to have been used for storage of domestic items and the rusty container for scrap metal. At the February 2018 site visit, it was noted that there was a skip on site full of salvaged metal.
11. The Council states that the appellant's response to the Planning Contravention Notice indicated that the skip was full of household materials which were not wanted any more and the container was full of old furniture, carpets etc.
12. In my view, the appellant's evidence falls some way short of demonstrating precisely to what use the site has been put. The annotation of part of the site as a vegetable garden in 2010 is not consistent with a storage use and neither is the presence of a skip with metal to be recycled. Furthermore, some of the items appear to have been simply discarded on the land, effectively using it for waste disposal, rather than being stored for re-use.
13. Furthermore, the evidence of a continuous ten year period of use is far from persuasive. There are gaps of many years between some of the relevant aerial photographs and there is no corroborating evidence as to the exact nature of the use and whether such use was continuous throughout the relevant period. For example, there is no sworn affidavit or other formal statement from the

appellant or members of her family and there are no independent statements from persons with first hand knowledge of the site over the relevant 10 year period.

14. In conclusion, the appellant has failed to demonstrate, on the balance of probability, that a storage use has been carried out continuously for a period of more than 10 years. Her evidence is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. Accordingly, I find the Council's decision to refuse to grant a certificate to be well-founded. The appeal fails.

B.S. Rogers

Inspector