
Appeal Decisions

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal A Ref: APP/E2340/C/21/3278403

Appeal B Ref: APP/E2340/C/21/3278404

Land at 1 Edgerton House, Lane Top, Winewall BB8 8BU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mrs Catherine Bell against an enforcement notice issued by Pendle Borough Council.
 - Appeal B is made by Mr Adam Bell against an enforcement notice issued by Pendle Borough Council.
 - The enforcement notice was issued on 22 June 2021.
 - The breach of planning control as alleged in the notice is without planning permission and within the last four years the development of a container on the land.
 - The requirements of the notice are to remove the container sited on the land.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeals are dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. Prior to my appointment to determine the appeal, the appellants were contacted to seek clarification regarding their grounds of appeal since it appeared that there may be a 'hidden' ground (c) appeal – that there has not been a breach of planning control. The appellants were given an opportunity to provide additional information.
3. The appellants' initial response in an email dated 12 July 2021, only addresses to my mind, matters which relate to an appeal on ground (g). Although in a further email the appellants refer to having looked on The Planning Portal and being 'allowed' to put a structure on the land, and whilst I have had regard to comments about the use of the land, no substantive case has been made out under ground (c). I have therefore determined the appeals on ground (g) only.

The appeals on ground (g)

4. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
5. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision.

6. The appellants' case is that they are making steps to relocate the business tools to an industrial unit, but they have some equipment that is needed to be stored for the restoration of their property. They estimate that should be completed in the next 12 months.
7. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellants' submissions largely relate to the time before the container can be removed.
8. Whilst I understand the appellants' position, it is necessary to weigh the competing private interests of the appellants and the public interest in respect of the harm to the character and appearance of the Trawden Forest Conservation Area and the openness of the green belt. Significant weight must be attached to this harm and it should not be permitted to continue for any longer than absolutely necessary.
9. In the absence of substantive explanation about the appellants storage needs and since it seems, based on the evidence before me, that there would not be any complex operations involved in removing the container, I consider three months to be a reasonable period for its removal. The appeals on ground (g) therefore fail.

Other Matters

10. The appellants' misgivings regarding the availability of advice from the Council are a matter between the appellants and the Council away from this appeal.
11. The presence of other containers in the locality has no bearing on the subject of this ground of appeal.

Conclusion

12. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

Felicity Thompson

INSPECTOR