



Appeal Decision

Site visit made on 11 April 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/Z4718/C/21/3288082

Land adjacent to 11 Park View, Cleckheaton, Kirklees BD19 3AN

- 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 Liam Broadbent against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 20 October 2021.
- The breach of planning control as alleged in the notice is, without the benefit of planning permission, the material change of use to storage, the siting of a shipping container and the erection of a metal gate and fencing fronting the highway to facilitate the use.
- The requirements of the notice are:
 1. Cease the use of the site for storage.
 2. Dismantle and permanently remove the boundary fencing and metal gate.
 3. Permanently remove the shipping container.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations.

The Notice

1. For clarity, the alleged breach of planning control should refer to the land to which the notice relates. I will therefore correct the allegation to refer to the material change of use "*of the Land*". No injustice to the appellant or the Council will arise.
2. The use of the word 'permanently' within the requirements of the notice is unnecessary, having regard to the provisions of section 181(1) of the 1990 Act which states that compliance with an enforcement notice shall not discharge the notice. The notice can be varied to delete both instances of the word without injustice to the appellant or the Council. In addition, the wording of the first requirement will be varied to "cease the use of the land" rather than "the site" to ensure it refers to the land to which the notice relates. This would not result in injustice to the appellant or the Council.

The appeal on ground (a)

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site comprises an area of land to the rear of 13 Park View – an end terraced property. It lies on a small side street off Park View and sits directly opposite the front elevations of 9 and 11 Park View. The surrounding area is predominately characterised by residential properties. On this part of Park View, properties are arranged in terraces with mature rear gardens. Beyond Park View to the west is a wide, open area of parkland whilst there is further housing development to the east.
5. At the time of my site visit, the appeal site contained several vehicles in varying states of disrepair. In addition, there were vehicle parts stored throughout the site, as well as the large shipping container referred to in the notice. I saw that the site was bound by fencing and large metal gates. As a consequence, the appeal site has a distinct industrial appearance, at odds with the prevailing residential character of the area.
6. Moreover, given the size of the site when compared to the surrounding rear gardens and the scale of storage contained within it, the development has resulted in an obtrusive and incongruous feature within the area. Furthermore, the appeal site is widely visible in the area, given its close proximity to the main road of Park View and the wider public spaces beyond. As a consequence, it has a detrimental effect on the street scene.
7. I conclude, therefore that the development has a harmful effect on the character and appearance of the area. As such, it conflicts with Policy LP24 of the Kirklees Local Plan Strategy and Policies 2019 which states that the form, scale, layout and details of all development should respect and enhance the character of the townscape.

Other Matters

8. I note the appellant states that the site has been cleared in preparation for a planning application for a housing development, with it being used temporarily for storage in the interim period. However, there is no evidence before me that such an application has been submitted to the Council. In any event, such matters would not outweigh the harm I have identified in relation to the character and appearance of the area.

Conclusion

9. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

10. It is directed that the enforcement notice be corrected by:

- Inserting the words “of the land” between the words “use” and “to” in paragraph 3 of the notice;

11. And varied by;

- Deleting the word “site” from paragraph 5(a) of the notice and its substitution with the word “land”;
- Deleting the words “permanently” from paragraph 5(b) and paragraph 5(c) of the notice.

12. Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Whitfield

INSPECTOR