
Appeal Decision

Site visit made on 5 September 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2022

Appeal ref: APP/Z5060/C/21/3273065

Land and premises at 929 Green Lane, Dagenham RM8 1DJ

- 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 Luis Shutti against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
 - The notice was issued on 7 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised placement of storage containers and the development of an enclosed storage area between the storage containers.
 - The requirements of the notice are:
 - remove the storage containers and the enclosed storage area between the storage containers from the land.
 - remove all subsequent waste material from the land.
 - The period for compliance with the requirements is within 1 month after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary Matters

2. When the appeal was lodged, it included only ground (c). However, the appellant confirmed within their statement that the appeal has also been made under ground (g). I have considered the appeal on this basis.
3. Although the main parties refer to the merits of the development enforced against, as there is no appeal on ground (a) and no deemed planning application for me to consider, the planning merits of the development are not relevant to my decision.

The appeal on ground (c)

4. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The onus of proof in respect of this ground rests with the appellant. He claims that the placement of shipping containers and the enclosed storage area on the land to the rear of the premises at No. 929 is permitted development and does not require planning permission. In essence, he says that there has been no breach of planning control.
5. The basis of the appellant's case is that the shipping containers are temporary and moveable structures which are/have been used to store materials and equipment in connection with the fit out of the retail unit at No. 929. The appellant contends that they are permitted development in accordance with Schedule 2, Part 4, Class A of The Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) (GPDO). This part of the GPDO permits moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

6. In his statement in July 2021 the appellant stated that the fit out of the premises was not yet complete. However, elsewhere within this statement the appellant confirmed that the retail unit opened officially on 12 April 2021 even though progress with the fit out was interrupted by the pandemic. During my site visit I saw that the premises was in use as a barbers and there were no operations taking place to fit out the premises.
7. Whilst the storage containers may have been used in connection with the fit out at No. 929 at some point, they, along with the enclosed storage area, are now being primarily used to bulk store drinks and items. There is no apparent connection between these items and the use of the premises at No. 929. It is likely that they are being stored in connection with the appellant's business at No. 931. I did see various construction tools, but there were no operations taking place on, in, under or over the land or on land adjoining it that would require the use of these tools.
8. A condition of the relevant class of the GPDO, is that development is permitted by Class A subject to that when the operations have been carried out any building, structure, works, plant or machinery permitted by Class A is removed from the land. Based on the evidence before me and my own observation on site, I consider this point in time passed some time ago and this was likely to be the case when the enforcement notice was served by the Council. Therefore, the shipping containers and the enclosed storage area are no longer permitted development under Part 4, Class A of the GPDO.
9. As a result, I have not gone onto consider their permanence or whether they are moveable as neither matter alters my conclusion against the GPDO. The appeal on ground (c) therefore fails.

The appeal on ground (g)

10. The appellant considers the specified time period of one month to remove the containers is unreasonable given their use and placement to provide security to prevent anti-social behaviour, trespassing and other criminal activity. However, there is no substantive evidence to demonstrate this, and the boundary wall now erected along the side and rear boundaries, together with lockable gates, prevents persons from being able to access the land. The containers and the enclosed storage area between them does not provide any additional security and given their nature, means of construction and attachment to the ground/each other, I consider the time period stipulated on the notice provides the appellant enough time to organise the removal of the containers, the enclosed storage area and also the removal of all resultant waste material from the land. Therefore, the appeal on ground (g) fails.

Conclusion

11. I note the appellant's points about communication with the Council and their willingness to find a solution, but for the reasons given above, the appeal is dismissed, and the enforcement notice is upheld.

Andrew McGlone

INSPECTOR