



Appeal Decisions

Site visit made on 11 October 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2022

Appeal A Ref: APP/X4725/C/22/3294637

Land at Park Square, Lofthouse, Wakefield

- 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 Paul Roche against an enforcement notice issued by City of Wakefield Metropolitan District Council.
- The enforcement notice was issued on 4 February 2022.
- The breach of planning control as alleged in the notice is, without planning permission, the stationing of a shipping container on the Land.
- The requirements of the notice are: remove of the shipping container from the Land.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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 variation.

Appeal B Ref: APP/X4725/W/22/3294635

7 Park Square, Lofthouse, Wakefield WF3 3HB

- 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 Paul Roche against the decision of City of Wakefield Metropolitan District Council.
- The application Ref 18/01627/FUL, dated 17 July 2018, was refused by notice dated 18 January 2022.
- The development proposed is a storage container to the rear hard standing of 7 Park Square and erection of 2m fence around hard standing.

Summary of Decision: The appeal is dismissed.

The Notice

1. Paragraph 5 of the notice contains a superfluous use of the word "of". I shall delete the word by varying the notice and can do so without injustice to the LPA or the appellant.

Appeal A on ground (d)

2. An appeal on ground (d) is made on the basis that, at the date the notice was issued, no enforcement action could be taken in respect of the breach of planning control as the time for doing so had expired. S171B(1) of the 1990 Act sets out that where there has been a breach of planning control consisting

- of the carrying out without planning permission of building operations, no enforcement action may be taken after the end of a period of four years beginning with the date on which the operations were substantially completed.
3. Whilst the stationing of a container on Land can be a material change of use, and therefore subject to an immunity period of ten years under section S171B(3) of the Act, there is no dispute between the parties that the alleged breach amounts to operational development. Having viewed the Land and the container, and considered the evidence before me, I am satisfied that the container is of such size, and of sufficient attachment and permanence as to amount to operational development. It is necessary therefore for the appellant to demonstrate that the container was substantially complete on or before 4 February 2018.
 4. It is stated within the appellant's submissions that the container has been there for 4 years. It is indicated that the Council visited the Land on 18 July 2018 following a visit from the Planning Inspectorate. However, no evidence on any previous appeal on this site has been provided nor any evidence of the Council's visit.
 5. The appellant has provided a photograph which is said to be dated 18 January 2018. It shows a blue container stationed on an area of hardstanding, in the same location as a container was located on my site visit. However, the application form dated 17 July 2018 in respect of Appeal B states that the work to station the container was started on 10 June 2018 and that, at the time the application was made, the work was not completed.
 6. Thus, whilst the Council has provided no evidence to contradict the appellant's version of events, I find the appellant's evidence is not sufficiently precise or unambiguous. I conclude, therefore, that it has not been demonstrated, on the balance of probabilities, that the stationing of a container on the Land was substantially complete 4 or more years before the notice was issued.
 7. The appeal on ground (d) therefore fails.

Appeal A on ground (a) and Appeal B

Preliminary Matters

8. The terms of the deemed application under the appeal on ground (a) derive directly from the alleged breach within the enforcement notice. Planning permission is therefore sought for the stationing of a shipping container on the Land.
9. The application in respect of Appeal B originally sought planning permission for a storage container and a fence. However, following submission of the application, the appellant withdrew the fence from the proposal. The application was therefore determined on the basis that it solely sought planning permission for the storage container. I have determined Appeal B on the same basis.

Main Issue

10. The main issue is the effect of the developments on the character and appearance of the area.

Reasons

11. The appeal site lies to the rear of the terraced, residential properties of Park Square. It forms part of a linear area of land adjacent to the rear access road of the properties. It is characterised by garages, parking areas and various items of residential paraphernalia.
12. The area is largely residential in character. Whilst there are commercial uses to the east, including container storage, these are separated from the appeal site and its surroundings physically and visually by a belt of mature trees and substantial hedgerows. Although intervisibility may increase during winter months, I am satisfied there is sufficient distinction between the character of the land to the east and Park Avenue.
13. The container is similar in height, width and length to the garages on the neighbouring plots of land. Nevertheless, the metallic finish, lack of pitch roof and lack of any domestic detailing gives it a particularly industrial appearance. This is at odds to the residential character of the vicinity.
14. Moreover, whilst at my site visit it had been painted with a matt grey finish and bound by a small trellis, the container is widely visible along this part of Park Square and also from vantage points on Park Avenue. As a result, I find the container to be an obtrusive and incongruous feature within the street scene.
15. I conclude, therefore, that the development will have a harmful effect on the character and appearance of the area. As such, it conflicts with Policies D9 and D10 of the Wakefield Local Development Framework Development Policies 2009 which states that the development shall respect and where appropriate enhance the character of the locality; and, that householder development should not result in significant harm to the character of the area.

Other Matters

16. The appellant draws my attention to two planning applications which have been granted for the siting of containers. However, the detail provided on those developments is limited and I cannot come to the conclusion that the circumstances in those cases is directly comparable to those before me here. In any event, I have considered this development on its own merits.

Conclusion on Appeal A on ground (a)

17. 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.

Conclusion on Appeal B

18. For the reasons given above I conclude that the appeal should be dismissed.

Formal Decisions

Appeal A

19. It is directed that the enforcement notice be varied by deleting the word "of" from section 5 of the notice. Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

20. The appeal is dismissed.

J Whitfield

INSPECTOR