



Appeal Decision

Site visit made on 24 October 2022

by Elizabeth Pleasant BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal Ref: APP/R0660/C/22/3298476

Land lying to the north west of Wellington Road, Bollington, Macclesfield SK10 5JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Co-operative Group against an enforcement notice issued by Cheshire East Council.
 - The enforcement notice was issued on 5 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised material change of use of the land to a car park for the parking of vehicles and the formation of an area of associated hard standing.
 - The requirements of the notice are to:
 - a) Cease the use of "the Land" for the parking of vehicles.
 - b) Remove the area of hard standing and the kerb edging stones shown in the approximate position shaded in green on the attached plan marked 'Plan B'.
 - c) Install kerb edging stones in the approximate position shown yellow on the attached plan marked 'Plan B'.
 - d) Reinstate the area of land shown in the approximate position shaded in green on the attached plan marked 'Plan B' with topsoil and seed with grass seed.
 - e) Remove all resultant materials from "the Land" following compliance with b, c and d above.
 - The periods for compliance with the requirements are:
 - a) 1 month after this Notice takes effect.
 - b) 3 months after this Notice takes effect.
 - c) 3 months after this Notice takes effect.
 - d) 3 months after this Notice takes effect.
 - e) 3 months after this Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Appeal on ground (f)

2. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
3. Section 173 of the Town and Country Planning Act, 1990 (as amended) (1990 Act) indicates that there are two purposes which the requirement of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach.
4. The Appellant believes that the requirements of the notice are not necessary to remedy the breach of planning control or to negate any injury to amenity

resulting from the breach. It is their contention that the existing hardstanding should remain, the parking bays removed, and non-retractable bollards installed in the same position as the kerb edging shown on 'Plan B' of the Notice. The Appellant's position is that these works would remedy the alleged breach by discontinuing the use of the Land as a car park, which would in turn remedy the injury to amenity.

5. It is clear from the requirements of the notice and confirmed by the Council in their Statement of Case, that the purpose of the enforcement notice is to remedy the breach of planning control. The purposes should not be confused with the reasons for taking enforcement action, since they do no more than set out why the Local Planning Authority considered it necessary to issue the enforcement notice.
6. The breach of planning control specified in the notice is the unauthorised material change of use of the land to a car park for the parking of vehicles and the formation of an area of associated hardstanding. The alternative requirements put forward by the Appellant would only remedy the breach of control in part. They would result in the cessation of the use of the land as a car park, however, the area of hardstanding that has been created would remain. The purpose of the notice which is to remedy the breach would not therefore be achieved.
7. I understand that the Appellant believes their submission should be accepted on the basis that the requirements of the notice exceed what is necessary to remedy any injury to amenity. I also appreciate that erecting bollards may not require planning permission. However, in this case the purpose of the requirements of the notice are wholly within s173(4)(a). General planning considerations cannot be considered through ground (f) alone, and an appeal on ground (a), that planning permission should be granted for all, or part of the matters alleged, has not been made. It is not therefore open to me to consider whether the requirements exceed what is necessary to remedy injury to amenity.
8. The Appellant's alternative requirements would not achieve the purpose behind the notice, and the appeal on ground (f) therefore fails.

Other Matters

9. I have read the correspondence received from third parties who support the appeal and wish the parking spaces to remain. However, the planning merits of the unauthorised development are not a consideration for me in this appeal, but have previously been considered by another Inspector¹.

Conclusion

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

Elizabeth Pleasant

INSPECTOR

¹ APP/R0660/W/19/3241733