



Appeal Decision

Site visit made on 23 May 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/W4705/C/22/3307865

36 Westgate, Shipley, West Yorkshire BD18 3QX

- 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 Ashiq Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 18 August 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, the installation of an externally mounted roller shutter and roller shutter box on the front elevation of the building on the land, as shown in the attached photograph.
 - The requirements of the notice are i) Remove the unauthorised roller shutter and shutter box from the front elevation of the building on the land.
 - The period for compliance with the requirements is Twelve calendar months.
 - 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.

Reasons

2. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173 (4) (a)) or to remedy injury to amenity (s173 (4) (b)). The Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
3. With regard to the unauthorised development, the objectives of the notice are to secure its removal and therefore to restore the land to its condition before the breach took place. It follows that the purpose of the notice is to remedy the breach of planning control.
4. From the information before me it is apparent that the development was the subject of a recent unsuccessful appeal¹. The development does not therefore benefit from planning permission. Given that the purpose of the notice is to remedy the breach of planning control, this can only therefore be achieved by the removal of the unauthorised development and consequently the restoration

¹ Appeal ref APP/W4705/Z/22/3293409 – decision dated 31 March 2022.

of the land to the condition it was in before the breach took place. To require this does not, therefore, exceed what is necessary and the appeal on this ground must fail.

5. The appellant's case is that the Council's concerns can be overcome by painting the roller shutter, either in a colour to be agreed through a step akin to a planning condition, or to be stipulated as a requirement to reflect the colour of the stone building, with full details to be provided; in accordance with a specified timetable. However, the appellant is not progressing a ground (a) appeal, that is to say that planning permission should be granted for the development. In the absence of a ground (a) appeal, and a deemed planning application, I am unable to consider the merits of the development which are not therefore before me. These considerations do not therefore weigh in favour of the appeal.
6. Indeed, if I were to accept either of the appellant's suggested solutions this would mean accepting the retention of the unauthorised development, tantamount to granting planning permission. This would be at odds with the previously dismissed appeal, in relation to which such planning permission was refused.

Conclusion

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

R Merrett

INSPECTOR