



Appeal Decision

Site visit made on 4 July 2023

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH JULY 2023

Appeal Ref: APP/J4423/C/23/3317254

990 Abbeydale Road, Sheffield S7 2QF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ghani Abbas against an enforcement notice issued by Sheffield City Council.
 - The notice was issued on 2 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a canopy to the side of the premises.
 - The requirements of the notice are to:
Remove the canopy structure and associated posts and remove all waste materials from the land.
 - The period for compliance with the requirements is: 35 days.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary Matters

2. The notice as drafted at Section 3, states the breach is '*without planning permission, the erection of a canopy to the side of the premises*'. Having regard to the evidence including the photographs provided, I understand that the '*canopy*' includes posts, and therefore I have taken the view that '*the canopy structure and associated posts*' as a fuller description of 'the canopy'. I have dealt with the appeal on that basis.
3. The Council have stated that at the time of the appeal the café business which was operating has ceased trading. However, I saw that a business was operational at the time of my site visit, and that a canopy structure was positioned to the side of the premises, albeit including seating areas and decoration. Nevertheless, I have dealt with the appeal from the evidence before me.

Reasons

4. The appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The notice requires compliance within 35 days of it coming in to effect.
5. The appellant seeks a period of 6 months to comply with the notice. This is stated to be in the context that 35 days is too short to organise the removal of the structure. This includes contacting builders to undertake the necessary work to comply with the requirements and to build an extension that has been granted planning permission on the same footprint in the intervening period.

6. The appellant has provided evidence to support their ground (g) appeal. Documents are provided relating to correspondence with third parties, 2 by email and 1 by text communication. However, of these documents, 1 of the emails sets out the appellant is interested in taking down a canopy as part of a 'turnkey' project. The other email is to request a quote to build an extension, with no mention of the canopy, and the other (text communication) doesn't confirm what the project is. As such none of these documents provide any timelines of availability for works to remedy the breach, so I cannot be certain that there would be no availability to remove the unauthorised development within the period for compliance.
7. Having regard to all of the correspondence submitted by the appellant, I find that while they are not inconsistent with their case, they do not add any positive evidential weight in support of it. In addition, it would appear from the evidence that the appellant has actively been in the process of contacting builders since the notice was served, and where an appeal is made, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision.
8. Furthermore, whether the appellant wishes to implement the planning permission or not is independent of the requirements of the notice, and I am mindful that the works required to comply with the requirements of the notice are not particularly complex. Nor that specialist contractors or demolition equipment would be required.
9. Moreover, the reasons why the Council issued the notice are that the unauthorised development is causing significant harm to the character and appearance of the surrounding area and fails to reinforce local distinctiveness. Therefore, it is in the public interest for the breach of planning control to be remedied as soon as reasonably possible. This provides a further reason not to extend the compliance period beyond the current specified period.
10. The appellant refers to other structures in the vicinity of the area, I do not have the precise details of these nor the matters of fancy lighting, decoration and serving areas and that the structure has been made secure and presentable. Nevertheless, I cannot consider the planning merits of the canopy structure since an appeal under ground (a) has not been made. Therefore, the appeal on ground (g) fails.

Conclusion

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

K A Taylor

INSPECTOR