



Appeal Decisions

Site visit made on 1 August 2023

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08/09/2023

Appeal A Ref: APP/X4725/C/23/3318009

Appeal B Ref: APP/X4725/C/23/3318010

Land at One Ash, Doncaster Road, Ackworth, PONTEFRACT WF7 7BZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act"). The appeals are made by Mr Salar Sadeghi (Appeal A) and Mr Seyed Hossein Mahmoodzadegan (Appeal B) against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 8 February 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of a large 2 metre garden planter, the erection of fencing and steel bollards within the vehicular access road referred to as Fairways.
 - The requirements of the notice are: (1) Remove the unauthorised planters from the vehicular access road referred to as Fairways; (2) Remove the unauthorised bollards from the vehicular access road referred to as Fairways; and (3) Remove the unauthorised fence from the vehicular access road referred to as Fairways.
 - The period for compliance with the requirements is: 2 months from the date the notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(b) and (c) of the Act.
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Decision

The appeals are dismissed and the enforcement notice is upheld.

Preliminary matter

1. The appellants dispute that the breach of planning control has any adverse implications for the safety of highway users. While that matter could be considered if a deemed planning application had been made in an appeal on ground (a)¹, it is beyond the scope of the appeals on grounds (b) and (c).

The appeals on ground (b)

2. An appeal on this ground must relate to matters of fact and may succeed if an appellant can show that the breach of planning control alleged in the notice had not occurred or has been incorrectly described.
3. The appellants confirm that the bollards were removed from the access road after the notice was issued. However, they have not provided any evidence that they had not been installed, as alleged, before the notice was issued. No evidence has been produced to contradict the remainder of the allegation, that a garden planter had been installed and fencing erected.

¹ That in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted, or as the case may be, the condition or limitation concerned ought to be discharged.

4. For these reasons, it has not been demonstrated that the alleged breach of planning control had not occurred, or that the notice did not describe it correctly. Consequently, the appeals on ground (b) must fail.

The appeals on ground (c)

5. An appeal may succeed on this ground if an appellant can show that one or more of the matters alleged in the notice does not constitute a breach of planning control. This could be because it is not development or does not require planning permission.
6. The appellants do not claim that any part of the breach of planning control is not development. However, they contend that details of the planter were submitted as part of the proposal to convert One Ash to form 3 dwellings and that it therefore benefits from the planning permission that was subsequently granted². No such claim is made in respect of the fencing and bollards, which therefore do not need to be considered further.
7. An appellant advised the Council that planters, including the one in the access road, had been installed in June and July 2021, while the planning application was being considered. Although the Council therefore knew about the planter, it is not clear whether this information constituted a formal amendment of the application. The absence of revised drawings suggest it was not treated as such. Even if it had been, the subsequent permission included a condition, number 2, that the development had to be carried out strictly in accordance with the plans listed in that condition. The planters do not appear on any of the listed plans, so they were excluded from the planning permission that was granted. They would therefore require a further permission, which has not been applied for or granted.
8. For these reasons, the appeals on ground (c) must fail.

Conclusion

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

Mark Harbottle

INSPECTOR

² 21/01241/FUL, granted 20 October 2021.