



Appeal Decisions

Site visit made on 8 January 2024

by B S Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Appeal A Ref: APP/J4423/C/23/3323990

Chai & Co, 16 Owler Lane, SHEFFIELD, S4 8GA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Harris Yakub of Chai & Co. against an enforcement notice issued by Sheffield City Council.
- The notice, numbered 20/00500/ENUD, was issued on 23 May 2023.
- The breach of planning control as alleged in the notice is (i) Without planning permission, the undertaking of operational development comprising 4 container buildings, decking and seating area; and (ii) the change of use of the land to use for the purpose of takeaway hot food and drink use.
- The requirements of the notice are in relation to paragraph 3(i) of this notice: (i) demolish and remove from the land all the development (shown on the Appendix and photographs attached to this notice) described in paragraph 3(i); (ii) remove from the land any materials or waste arising from the compliance with paragraph 5(i); and in relation to paragraph 3(ii) of this notice: (iv) cease the use of the land for the takeaway hot food and drink use; and (v) remove from the land any items stored on the land associated with the takeaway hot food and drink use.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Appeal B Ref: APP/J4423/W/23/3323989

Chai & Co, 16 Owler Lane, SHEFFIELD, S4 8GA

- 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 Harris Yakub of Chai and Co. against the decision of Sheffield City Council.
 - The application Ref 22/03703/FUL, dated 10 October 2022, was refused by notice dated 11 April 2023.
 - The development proposed is siting of 4x shipping container buildings for use as a takeaway food/drink shop with car parking provision (retrospective application).
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Decision

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely (i) the undertaking of operational development comprising 4 container buildings, decking and seating area; and (ii) the change of use of the land to use for the purpose of takeaway hot food and drink use at Chai & Co, 16 Owler Lane, Sheffield, S4 8GA, as shown on the plan attached to the notice, and subject to the two conditions set out in the schedule at the end of this letter.

2. Appeal B is allowed and planning permission is granted for siting of 4 no. shipping container buildings for use as a takeaway food/drink shop with car parking provision at Chai & Co, 16 Owler Lane, Sheffield, S4 8GA, in accordance with the terms of the application ref: 22/03703/FUL, dated 10 October 2022 and the plans submitted with it, subject to the same two conditions set out in the schedule at the end of this letter.

Appeal A (ground (a) and the deemed application) and Appeal B

3. The appeal site is an infill plot, lying between nos. 10 and 18 Owler Lane. It comprises a substantial area of hardstanding, on which a food and drink outlet has been formed from four shipping containers. Two of these are stacked to form a 2-storey frontage, which abuts the side gable of, but is set well back from the front elevation of, no.18. The other two containers are sited on the ground to the rear of these. There is a small, raised timber decked area on the frontage, with outdoor seating. In addition to this, there are gates to the side of the stacked containers, around 2m high, which control access to a rear parking area, intended for staff use only.
4. The appeal site is within a Local Shopping Centre, as identified in the Sheffield Unitary Development Plan (UDP). The Council accepts that, in principle, this food and drink use is an acceptable use, which adds to the vitality of the shopping centre and does not conflict with UDP Policies S7 and S10(a).
5. On the opposite side of Owler Lane, to the north and north-west of the appeal site are two Grade II Listed buildings, Trinity Church and St Cuthbert's Church. However, the Council accepts that, as there are no views of the containers in the context of the listed buildings, either in the foreground or background, the development does not unduly harm the setting of these buildings such that there would be a conflict with UDP Policy BE19 or with National Planning Policy Guidance. I see no reason to disagree with that view.
6. Accordingly, the main issue in both appeals, which relate essentially to the same development, is the impact of the development on the character and appearance of Owler Lane.
7. UDP Policies BE5 and S10(d) and Core Strategy Policy CS74 are consistent with national policy in generally seeking to ensure development is of good design and materials, of a scale appropriate to the site and has regard to local distinctiveness. In this case, the appeal site is bounded to the east and west by traditional, two-storey red brick built terraces in predominantly retail use. The block which includes the adjacent property, no.18, is an interesting, late-Victorian design, albeit that modern extensions, roller shutters and advertising have somewhat diminished its original architectural quality.
8. The introduction of the development subject to these appeals is clearly a contrast to the established pattern of development. However, the site appears for many years to have been vacant waste land and to have last been used for the storage of shipping containers and cars. In that context, the more formal and orderly siting of the containers in the present scheme would appear to represent an innovative scheme which is a visual improvement on the previous use. The setting back from the frontage and the painting black of the containers considerably reduces their visual impact on the street scene. Indeed, the recessive nature of the development tends to enhance the aesthetic character of the terraced blocks on either side.

9. The re-purposing of the containers appears to be a sustainable form of development, which appears to have been used on suitable sites elsewhere in the City. In the particular context of this site, I see the development as an innovative solution to making viable use of land whose former condition must have detracted from the appearance of, and undermined the vitality of, this shopping centre. This appears to be consistent with the encouragement of innovation in the National Planning Policy Guidance.
10. I conclude that the limited harm to the character and appearance of Owler Lane is outweighed by the benefits of the scheme. As such, there is no undue conflict with the aims of the development plan.
11. For the reasons given above, I conclude that both appeals succeed. I shall grant planning permission for the development and quash the notice.

Conditions

12. As the dark and recessive colour of the paintwork is an important factor in my conclusion, a condition requiring the black paintwork to be retained will be imposed.
13. The Council also points to the need for a vehicular crossing to serve the rear car park. This appears necessary in the interest of highway safety.

B S Rogers

INSPECTOR

Schedule of Conditions for Appeal A and Appeal B

- 1) The metal containers and the gates hereby approved shall remain externally painted black, unless otherwise agreed in writing by the Local Planning Authority.
- 2) Within a month of this decision, an application shall be made to the Local Highway Authority concerning the construction of a vehicular crossing to serve the site.