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## Appeal Decisions

Site visit made on 17 January 2025

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

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**Appeal A Ref: APP/X2220/C/22/3306262**

**Appeal B Ref: APP/X2220/C/22/3306263**

**291 London Road, Deal CT14 9PP**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Miss Katie-jean Clarke and Appeal B is made by Miss Jazzmyn Barrow against an enforcement notice issued by Dover District Council.
  - The notice was issued on 4 August 2022.
  - The breach of planning control as alleged in the notice is without planning permission, the unauthorised formation of a vehicular access.
  - The requirement of the notice are to cease the use of the access in the approximate location shown as A-A on the attached plan, for access and egress purposes of all and any vehicular traffic.
  - The period for compliance with the requirement is 5 September 2022.
  - The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).
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### Decision

1. It is directed that the enforcement notice is varied by:  
the deletion of the words "5 September 2022" and their substitution with the words "one week" as the period for compliance.
2. Subject to the variation, the appeals are dismissed and the enforcement notice is upheld.

### Preliminary Matters

3. The appellants raise matters concerning the planning merits of the development, and the neighbours' support for off-street parking. As there is no appeal on ground (a) there is no deemed planning application and I cannot take these matters into account.
4. I note that 291 London Road is a listed building with a statutory address of 285-293 London Road (list entry number 1261645). The appellants state that they were advised that planning permission was not required to remove the front boundary wall. The allegation is the formation of a vehicular access and there is no dispute that a vehicular access to the property required planning permission. I note that planning permission<sup>1</sup> has now been granted for the erection of a front boundary fence as a replacement for the demolished front boundary wall. I have therefore not considered further whether the removal of the front boundary wall required planning permission or listed building consent.

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<sup>1</sup> Application ref. 21/01409

5. The appellants also raise concerns at the way in which their planning application was handled and the advice given by council officers in the period prior to the notice being issued. These are not matters that have any bearing on my determination of the appeals.

### **Matters concerning the notice**

6. The date for compliance with the requirement a day after the notice came into effect. This date has now passed. I can use my power under section 176(1) to correct or vary the notice. I consider that it would be reasonable to allow a period of one week for compliance with the notice rather than one day. This will not cause injustice to the appellant or the local planning authority and I shall vary the notice accordingly.

### **The appeals on ground (b)**

7. The ground of appeal is that the matters stated in the enforcement notice have not occurred. This is a legal ground of appeal where the burden of proof lies with the appellants and the standard of proof is the balance of probability.
8. The notice alleges the formation of a vehicular access. The plan indicates that the access was formed between the points A-A which is partly across the footway which forms part of the highway and includes part of the garden to the front of 291 London Road. The front boundary wall has been removed in the position A-A, and some hardstanding has been laid across the front garden. There is no dropped kerb.
9. The appellants do not dispute that part of the front garden has been hard surfaced and that the front boundary was removed. They acknowledge that their intention was to create off-street parking, for which the above referenced planning application was originally submitted.
10. There was no indication that the hardstanding was being used for parking at the time of my visit, but I note that the appellants state that the 'driveway' has not been used since the enforcement officer attended the property. At this point a hard surface had been laid and the area was observed by the officer as being used for parking. While the appellants state that it was used in relation to urgent gas works at a neighbouring property and that it was put in place to deal with weeds and brambles, they have not provided any firm evidence to indicate that it was not used for parking in the period leading to the notice being served.
11. I conclude therefore, on the basis of the evidence before me and on the balance of probability, that the development alleged in the notice has occurred. The appeals on ground (b) therefore fail.

### **Conclusion**

12. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation.

*N Thomas*

INSPECTOR