



Appeal Decision

Site visit made on 10 February 2025

by Elizabeth Pleasant BSc (Hons), Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 21 February 2025

Appeal Ref: APP/A1015/C/24/3339738

Land at 10 Pottery Lane West, Chesterfield S41 9BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr David Revitt against an enforcement notice issued by Chesterfield Borough Council.
 - The notice was issued on 1 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, a material change of use of the rear garden land from residential use to a mixed use residential and vehicle storage use.
 - The requirements of the notice are to:
 - (1) Remove the bus (registration plate P316 FAW) from the area hatched blue on the attached plan and
 - (2) thereafter cease the mixed residential and vehicle storage use.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) 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.

Appeal on ground (c)

2. The ground of appeal is that the matters alleged in the Notice do not constitute a breach of planning control. On this legal ground of appeal, the onus of proof is on the appellant to make out his case and the test is on the balance of probabilities.
3. The appeal site comprises an end of terrace residential property which has a long and narrow rear garden. Towards the rear of the garden some excavation works have taken place, followed by the construction of blockwork walls to enclose it. The remainder of the garden has been laid with hardcore, and at the time of my visit a single decker bus was stationed on it. I use the word 'stationed' as it is a neutral term for both parking and storing.
4. It is the appellant's case that the bus is being converted to a motorhome and, as such, meets the definition of a caravan as defined in section 29(1) in the Caravan Sites and Control of Development Act 1960. He states that the 'motorhome' is used by himself and other members of the household for purposes ancillary to the main dwelling, and stationing of it within his garden is not therefore a breach of planning control. He states that the 'motorhome' is only stationed on part of the garden, and the enforcement notice should not therefore relate to the whole property.
5. The Council advise that when they first resolved to take enforcement proceedings in July 2022, the rear garden of the property had a single decker bus (taking up the

majority of the rear garden area) stored on it, together with 2x land rovers within the blockwork enclosure, a vehicle stored on top of the bus, and a trailer stored on top of the walled enclosure. It was their view that the storage of those vehicles was not incidental to the residential use of the property and a material change of use had occurred.

6. Although the bus is only stationed on part of the Land, the allegation is one of a material change of use from a primary residential use to a mixed residential and vehicle storage use. Thus, the Council accepts that part of the Land is still in residential use but alleges that a primary vehicle storage use is now also taking place within the same planning unit, such that a material change of use to a mixed use residential and vehicle storage use has taken place.
7. I have had regard to the photograph submitted by the appellant, dated 21 January 2024, which shows that the bus was moved off the appeal site onto the neighbouring lane for a short period of time before the Notice was issued. However, S172 (1) (a) of the Town and Country Planning Act, 1990, as amended (the Act), is worded in the past tense, and makes provision for the local planning authority to issue an enforcement notice where it appears to them that there has been a breach of planning control. The appellant does not argue that the alleged breach of planning control has not occurred (ground (b)), only that he moved the bus for a short period of time prior to the notice being served.
8. The appellant contends that the bus is being converted to a motorhome and it has been stationed on the appeal site since around 16 October 2020 for uses incidental to the enjoyment of his dwelling at 10 Pottery Lane. He states that it is not used as a separate dwelling but is used by himself and other members of the household for purposes incidental to the main dwelling, in particular “to enjoy privacy during the sexy times”.
9. The appellant has provided screenshots¹ which appear to show the interior of a bus converted into living accommodation. However, at the time of my site visit I observed that the single decker bus stationed on the Land had been stripped out internally, and did not have any fixtures or fittings within it. Nevertheless, there does not appear to be any dispute that the bus has been stationed on the Land since October 2020. In addition, at various times other vehicles, including land rovers, and other makes and models of cars/vans, including a car stored on top of the bus, have also been stationed on the Land.
10. S55(2)(d) of the Act provides that the use of land or buildings within the curtilage of the dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such, is not development. There is no dispute that the Land the subject of the Notice is within the curtilage of 10 Pottery Lane, and its lawful use is residential. It is therefore necessary to consider whether the stationing of the bus and other vehicles on the Land, is incidental to that residential use as claimed by the appellant.
11. An incidental use in this case is one which is functionally related to the lawful primary residential use. The functional relationship should be one that is normally found and not based on the personal choice of the user. It is generally accepted that the parking of cars within a planning unit in use as a dwellinghouse would normally be incidental to the primary residential use. This is because parking

¹ Appellant's Statement of Case, Documents DR1, DR2, DR3, DR9 & DR10.

differs in character to residential use, but it is a function of the enjoyment of the dwellinghouse. Moreover, the functional relationship is one commonly found.

12. Irrespective as to whether the bus is or isn't a motorhome/caravan, it is clear to me that it is not being parked on the Land and instead is being stored there. It is established case law that the concept of parking of vehicles and storage of vehicles are distinctive. Parking is described as when a vehicle is left in a convenient place for the resumption of an interrupted journey, or the start of the next journey. It might be 'short term, overnight or long term'. However, in this case the appellant advises that the 'bus/motorhome' is stationed on the Land whilst it is being converted to a motorhome. Except for a photograph which shows the bus having been moved to the adjoining lane on 21 January 2024 for a short period, I have not been provided with any substantive evidence that it has moved from the Land since it was brought there in 2020. There is no evidence that during this time the bus/motorhome has been taxed and/or insured, and it could not therefore be lawfully driven on the public highway. From the evidence available the bus/motorhome is being stored on the Land and not parked there.
13. I accept that the appellant may have brought the bus onto the Land with a view to converting it to a motorhome. However, storing and converting a large single decker bus to a motorhome, within the rear garden of a residential terraced property, would not to my mind be a normal functional relationship between the incidental and the residential use. In particular, the bus takes up most of the dwelling's rear garden and has resulted in a change in the character of the garden. I am also mindful that when I visited the site there was no evidence that such conversion works had/or were taking place, nor that the bus's purpose on the site was for anything other than being stored there. In addition, the Council's evidence, supported by photographs, is that since 2020 the Land has also been used for the storage of other vehicles, including cars, vans, land rovers, and at one time a car was being stored on the roof of the bus². The appellant does not provide justification for many of the different vehicles that have been stored on the Land, and there is no suggestion that those vehicles were being parked there for his own personal use. Whilst he suggests that he was unable to move the bus and land rovers because he did not want to breach a Community Protection Warning/Notice he had been issued with, there is no substantive evidence that that would have been the case. Nevertheless, that would not be a reason for why the alleged mixed use would not be a breach of planning control.
14. I conclude, from the evidence available, that the use of the Land for the storage of a bus/motorhome and other vehicle storage is not incidental to the lawful residential use. A material change of use to a mixed residential and vehicle storage use has thus occurred, for which no planning permission has been granted by the local planning authority. The material change of use is not permitted by any provisions of the Town and Country Planning (General Permitted Development Order) (England) 2015, as amended. A breach of planning control has occurred, and the appeal on ground (c) must therefore fail.

Other Matters

15. The appellant advises that he has a protected characteristic, dyslexia. The appeal has only been made on legal grounds, and thus matters of human rights and the

² Local Planning Authority Appendices, PS10, PS3, PS\$ and PS6

public sector equality duty are not for my consideration in this appeal. However, it is clear from the appellant's appeal submissions that he understood the terms of the Notice and was able to construct and articulate his evidence in support of his ground of appeal.

16. The previous occupier of No 10 Pottery Lane states that he utilised part of the rear garden for the parking and storing of his cars³. On that basis the appellant suggests that the use of the rear part of the site has a lawful parking/storage use gained through the passage of time. However, the breach of planning control alleged in the Notice in this case is the material change of use to a mixed residential and vehicle storage use and the Notice relates to the whole of the rear garden, not just part of it. No appeal has been made on ground (d) and I have not been provided with any substantive evidence to support a case that a mixed residential and vehicle storage use is lawful. I therefore give this consideration little weight.
17. I have had regard to the appellant's concerns over the Council's investigations and uncertainty which has resulted from their actions. However, matters relating to expediency and the Council's procedures are not matters for me in this appeal which has been made on legal grounds.

Conclusion

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

Elizabeth Pleasant

INSPECTOR

³ Appendix DR23, Appellant's Statement of Case.