
Appeal Decision

Site visit made on 20 February 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 18th March 2025

Appeal Ref: APP/Z4718/C/24/3345335

Land adjoining 9 Briggate, Dalton, Huddersfield HD5 9ST

- The appeal is made by Fernando Lanni under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: COMP/20/0395) issued by Kirklees Council on 26 April 2024.
- The breach of planning control alleged in paragraph 3 of the notice is "Without the benefit of planning permission, the material change of use to storage".
- The requirements of the notice set out in paragraph 5 of the notice are as follows: -
 - "a) Permanently remove the single deck bus from the site.
 - b) Permanently remove all the metal storage containers from the site.
 - c) Permanently remove all stored building materials from the site."
- The period given in paragraph 6 of the notice for compliance with these requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f) and (g). There is no appeal on ground (a) (that planning permission should be granted) and the planning merits of the matters alleged in the notice have therefore not been considered.

Decision

1. It is directed that the enforcement notice be corrected (i) by adding after "storage" in paragraph 3 the words "of a single deck bus" and (ii) by deleting paragraphs 5b) and 5c).
2. Subject to these directions, the appeal is dismissed and the enforcement notice is upheld as corrected.

Reasons for the decision

The alleged breach of planning control

3. The Council's appeal statement indicates that the authorised use of the site shown on the plan attached to the enforcement notice is residential, it being the large garden area belonging to the appellant's adjoining house, 9 Briggate. The breach of planning control alleged in paragraph 3 of the notice is "Without the benefit of planning permission, the material change of use to storage". This description is imprecise. Paragraph 4 of the notice explains it more clearly as "the material change of use to storage of a single deck bus, metal storage containers and miscellaneous building materials". This definition aligns with the requirements of the notice.

Ground (b) (and the underlying ground (c))

4. The purpose of an appeal on ground (b) is to maintain that the breach of planning control alleged in the notice has not occurred as a matter of fact. The appellant does not dispute that a single deck bus, three metal storage containers and some building materials are on the site, but maintains that they are there for residential purposes. I have therefore treated his appeal as one that has been brought on ground (c) as well, namely that the matters stated in the notice do not constitute a breach of planning control. The Council's appeal statement has dealt with both grounds.
5. The site is land within the curtilage of the appellant's dwellinghouse. Section 55(2)(d) of the 1990 Act provides that the use of such land for any purpose incidental to the enjoyment of the dwellinghouse as such is exempted from the requirement to obtain planning permission. Caselaw has determined that, to be exempt, such a use must be of a scale and nature that is incidental to the reasonable enjoyment of the normal residential use of the land. The test is an objective one and is not a matter solely within the discretion of the householder.
6. In paragraphs 7 to 14 below, I have considered in turn each of the alleged uses in relation to section 55(2)(d) and the caselaw. For the reasons given, this has led to the conclusion that the appeal has succeeded on ground (c) in relation to the metal storage containers and the building materials. The notice should therefore be corrected so that it relates only to the single deck bus. The corrections are in paragraph 1 above.

The single deck bus

7. The bus is a full size single decker service vehicle which is parked next to fencing in the south-western corner of the site. It does not display registration plates and is understood not to have been moved for several years.
8. The appellant uses a wheelchair. He has explained that the bus is accessible and has a bed and other household items in it. He intends to use it as a motorhome in the future for outings with members of his family.
9. I fully understand that the appellant and any householder in his position would wish to keep a large motorhome with good access for a wheelchair at their home. This is a not uncommon situation and it does not normally require planning permission. Motorhomes often also exist as conversions of other vehicles, such as vans, and they also can normally be kept at home without requiring planning permission. It is also not unknown for full size single and double decker buses to be converted into mobile living accommodation, but I would not expect to find them being kept at someone's home.
10. As a matter of fact and degree, I consider that the use of this site for the storage of the bus is a use of a scale and nature that is over and above what caselaw has determined may be exempted by section 55(2)(d) from the requirement to obtain planning permission.

The metal storage containers

11. There are two blue containers and one red container on the site, which are all capable of being moved. They are used by the appellant for the storage of

items and equipment associated with his house and garden. The use of containers for these purposes is often regarded as being incidental to the enjoyment of a dwellinghouse as such. In this instance, taking into account the limited amount of space they take up within this large garden area, their use here for these purposes is, as a matter of fact and degree, a use of a scale and nature that is incidental to the reasonable enjoyment of the normal residential use of the land and is exempt from the requirement to obtain planning permission.

The building materials

12. The appellant used to own 11 Briggate as well as No 9. He has stated that there are some building materials on the site that were left over from work done on both houses. These include the small quantities of bricks, stones, tiles and timber and the fencing panels that are on the site. The appellant has indicated that some of the materials might be used for future garden projects.
13. It is not clear which of these items are the "stored building materials" that the notice is directed at. The notice and the Council's statement only describe the building materials as "miscellaneous" and offer no further explanation.
14. It is normal for householders to keep some spare building materials on their property in case they will come in useful at some time in the future. This is incidental to the reasonable enjoyment of the normal residential use of the land and does not require planning permission, provided it is of a scale and nature that remains incidental. As a matter of fact and degree, I consider that the scale and nature remain incidental in this instance.

Ground (d)

15. The purpose of an appeal on ground (d) is to maintain that, at the date when the notice was issued, it was too late to take enforcement action. Following my conclusions about the metal storage containers and the building materials, this ground now applies only to the single deck bus.
16. When the appellant responded to a planning contravention notice on 25 October 2023 he stated that the bus had been on his land for about eighteen months. Aerial imagery supplied by the Council indicates that it arrived on the site between 2020 and 2021. It had not therefore been there for the requisite ten-year period when the notice was issued on 26 April 2024 and it was therefore not too late to take enforcement action on that date.
17. The appeal on ground (d) in relation to the single-deck bus has failed.

Ground (f)

18. The purpose of an appeal on ground (f) is to maintain that the requirements of the notice exceed what is necessary to remedy the breach of planning control and any injury to amenity caused by it. Following my conclusions about the metal storage containers and the building materials, this ground now applies only to the single deck bus.
19. The notice has been served to remedy the breach of planning control and the appropriate remedy in the case of the bus is to require its removal from the

site. The notice does no more than what is necessary to remedy the breach and the appeal on ground (f) has therefore failed.

Ground (g)

20. The purpose of the appeal on ground (g) is to maintain that the time given, 60 days, to comply with the notice is too short. Again, following my conclusions about the metal storage containers and the building materials, this ground now applies only to the single deck bus.
21. There is no indication in the information provided by the appellant that he would have difficulties in arranging for the removal of the bus within the period allowed and it appears to me to be long enough for him to comply. The appeal on ground (g) has therefore failed.

D.A.Hainsworth

INSPECTOR