



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 18th May 2017

Appeal ref: APP/G4620/C/16/3161898

Land at 1 Skip Hire Ltd, Palace Drive, Smethwick, West Midlands, B66 1NZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is brought by Mr H Singh against an enforcement notice issued by Sandwell Metropolitan Borough Council.
- The notice was issued on 23 September 2016.
- The breaches of planning control as alleged in the notice is "Without planning permission, the material change of use of the Land from B8 (Storage and distribution) to a Skip Hire and waste sorting yard (Sui Generis) ("the Unauthorised Use") and Without planning permission the construction of a sorting shelter and the siting of portable buildings ("the Unauthorised Development") on the Land".
- The requirements of the notice are as described in the annex to this decision.
- The period for compliance with the requirements of the notice is "Six months after this notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Procedural matters

1. The appellant's agents contend that the Council has not produced any evidence that the current operations on the site have caused any harm to the surrounding area. However, for the avoidance of doubt, as ground (a) was not appealed or the relevant fee paid, the planning merits of the development are not before me to consider. Therefore, the stated harm caused to the surrounding area is taken as read as it has not been challenged by way of a ground (a) appeal. I can only consider the appeal on ground (g), which is whether or not the time given to comply with the requirements of the notice is too short.

Reasons for the decision

2. The basis of the appellant's case is that they require more time to comply with the notice in order to seek out alternative premises. His agents argue that any alternative site will require planning permission and an Environment Agency Operating permit. He requests that the compliance period be extended to two years in order for this to happen.

3. While I note the reasons for the appellant's request, I agree with the Council's point that as the temporary planning permission expired on 10 March 2016, the appellant has been aware for quite some time that he would have to cease operating and vacate the land. While he exercised his right to make a further planning application, it is reasonable to expect the appellant to have still been taking steps to seek out an alternative location in that time. I am also mindful that some 7 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the 6 month compliance period will begin again from the date of this decision, the appellant will have had some 13 months at least in which to find another site. I consider this period to be more than reasonable and achieves an appropriate balance between the need to bring the harm caused by the unauthorised use to an end and the need of the appellant to secure an alternative site and obtain the necessary permissions and permits. I certainly cannot justify extending the period to two years as that would be tantamount to granting another temporary planning permission, which I have no powers to do.
4. Therefore, in the circumstances, I am not satisfied there is good reason to extend the compliance period further and I consider the 6 months given is sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

Formal decision

5. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee

Annex to decision

WHAT YOU ARE REQUIRED TO DO

- 5.1. Cease the Unauthorised Use on the Land
- 5.2. Remove from the Land the sorting shelter and its stands and the waste sorting machine, fences, portable buildings, skips and vehicles associated with the use.
- 5.3. Remove all waste from the Land associated with the Skip Hire business
- 5.4. Remove from the Land all materials and debris arising from compliance with paragraphs 5.1, 5.2 and 5.3 above.