



Appeal Decision

by Ken McEntee

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

Decision date: 17 October 2019

Appeal ref: APP/Q3820/C/17/3175232

Land at Southways Business Park, London Road, Lowfield Heath, Crawley, Sussex, RH10 9TG

- 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 Ace Airport Parking Ltd against an enforcement notice issued by Crawley Borough Council.
- The notice was issued on 19 April 2017.
- The breach of planning control as alleged in the notice is "the material change of use of the Land to Airport Parking (Use sui generis) ("the Unauthorised Development"), together with Operational Development undertaken to facilitate the unauthorised use comprising the stationing of portacabins and the erection of other temporary buildings providing toilet and storage facilities, as shown on the area marked on the plan attached to the enforcement notice".
- The requirements of the notice are: "1. Cease the use of the land for any new or further Airport Car Parking; 2. Remove all airport related vehicles from the land; 3. Remove from the land all portacabins and other temporary buildings stationed and erected on the land to facilitate the unauthorised use".
- The periods for compliance with the requirements of the notice are: in respect of requirement 1, 24 hours after this notice takes effect. In respect of requirements 2 and 3, 1 month 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. This appeal decision follows the decision of 9 January 2019 under the same reference, in which grounds of appeal (a), (c) and (f) under section 174(2) of the 1990 Act were determined, but the Inspector failed to determine the appeal on ground (g)¹. Therefore, as instructed by the High Court Consent Order of 15 April 2019, all that is before me to determine is the appeal under ground (g) only. Any evidence submitted that is not relevant to the ground (g) appeal is not to be considered.

Reasons for the decision

2. The main basis of the appellants' case is that more time is required to comply with the requirements of the notice due to the need to honour existing passenger and hotel contracts as well as find an alternative site and obtain the necessary

¹ The time given to comply with the notice is too short

planning permission. They request that the compliance period be extended to between 9-12 months. However, I note that some 9 months have elapsed since the issue of the appeal decision of 9 January 2019 with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had the time period they desire in which to honour existing contracts, seek out an alternative site and planning permission for the business and to comply with the requirements of the notice. I consider this period to be both proportionate and reasonable and provides an appropriate balance between the needs of the appellants' business and the need to bring the stated harm caused by the unauthorised use to highway safety and the surrounding area to an end.

3. In these circumstances, I am not convinced there is good reason to extend the compliance periods further and consider the compliance periods given in the notice to be adequate. The ground (g) appeal fails accordingly.
4. While I am dismissing the appeal, should the appellants experience any genuine difficulties, the Council have the power under section 173(1)(b) of the amended 1990 Act to extend the compliance periods themselves, should they see fit. Whilst it is entirely a matter for the Council's discretion, it would be open to the appellants to request a further short extension of time, should that prove necessary.

Formal decision

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

K McEntee