



Appeal Decision

by Ken McEntee

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

Decision date: 31 March 2020

Appeal ref: APP/M1005/C/19/3242803

Land at Boam Joinery, Queen Street, Langley Mill, Nottingham, NG16 4EJ

- 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 Boam Joinery Ltd against an enforcement notice issued by Amber Valley Borough Council.
- The notice was issued on 8 November 2019.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the building from a light industrial joinery use to a general industrial paint spraying use".
- The requirements of the notice are: "I. Cease the paint spraying operation from the building: and II. Remove the extraction system from the rear elevation of the building".
- The period for compliance with the requirements of the notice is: "1 month after this notice takes effect (11 January 2020)".
- 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 allowed and the enforcement notice is varied.

Reasons for the decision

1. The appellants contend that the time period to comply with the notice is too short as they have submitted a planning application for a new detached building for the paint spray element of the business and they are concerned that a proportion of the 14 staff may need to be laid off. They anticipate the business in its new location will be operational by 31 May 2020 so request the compliance period be extended until then.
2. If the appeal is dismissed, the period for compliance will expire at the end of April 2020 as it will begin again from the date of this decision. As this is only some 4 weeks short of the appellants desired compliance date, and in view of the appellants' reasons for requesting it, I consider it reasonable to extend the period accordingly. Although I note that the Council question the number of staff stated by the appellants and the fact that there is no guarantee the planning application will be successful, I take the view that the period requested is both reasonable and proportionate and provides an appropriate balance between the appellants attempt to re-site the spray-painting business by way of a planning permission while avoiding the necessity to lay-off staff, and the need to bring the stated harm caused by the unauthorised

use to the occupiers of neighbouring properties to an end. The ground (g) appeal succeeds accordingly.

3. Should a decision on the planning application still not be made by the end of the new compliance period, the Council have the power under section 173A(1)(b) of the amended 1990 Act to extend the compliance period themselves, should they see fit. Whilst this 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

4. For the reasons given above, the appeal is allowed and it is directed that the enforcement notice be varied in paragraph 6 "**TIME FOR COMPLIANCE**", by the deletion of "1 month after this notice takes effect (11 January 2020)" and the substitution of "2 months after this notice takes effect (31 May 2020)". Subject to this variation the notice is upheld.

K McEntee