
Appeal Decision

Site visit made on 22 June 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2020

Appeal Ref: APP/N4720/C/19/3239996

Former Site of 150 Stoney Rock Lane, Burmantofts, Leeds LS9 7BL

- 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 made by Mr Elijah Ogunsina against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 4 October 2019.
- The breach of planning control as alleged in the notice is the change of use for the storage of shipping containers, trailers and associated vehicles and vehicle parts.
- The requirements of the notice are:
 1. Cease the use of the land for unauthorised storage.
 2. Remove all storage containers, trailers and associated vehicles from the land edged in red on the attached plan within the next three months.
- The period for compliance with the requirements is as identified above beginning with the date on which this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: No further action is taken.

The Enforcement Notice

1. Section 173(9) of the Act identifies that every notice shall include the period for compliance. A notice which omits this is likely to be defective on its face and a nullity.
2. Paragraph 5 of the notice sets out the requirements and section 6 the time for compliance. However, paragraph 6 states that the time for compliance is "*As detailed above beginning with the day on which this notice takes effect.*" Although requirement 2 of paragraph 5 identifies a period of "*within the next three months*" to remove all the storage containers, trailers and associated vehicles from the land, requirement 1 of paragraph 5 fails to identify a time.
3. Consequently, the Council's failure to specify an actual period of time within which the first requirement of the Notice should be complied with means that the enforcement notice is a nullity.
4. In addition, the courts¹ have held that the recipient of an enforcement notice is entitled to say that he must find out from within the four corners of the document what he is required to do or abstain from doing. Vague or ambiguous requirements offend that rule. The first requirement of the notice would be effective to ensure the cessation of the storage use of the land; however, the second requirement fails to identify that the vehicle parts which

¹ Miller-Mead v MHCLG [1963] 2 WLR 225

are included in the unauthorised storage use are required to be removed. That may be a simple omission which could be remedied if parties agree that no prejudice would be caused, but in this particular case, since the notice is a nullity no further action should be taken.

Conclusion

5. I have concluded that the notice is a nullity and in these circumstances the appeal under the various grounds set out in section 174(2) to the 1990 Act as amended does not fall to be considered.

Formal Decision

6. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Council should consider reviewing the register kept under section 188 of the Act.

A A Phillips

INSPECTOR