



Appeal Decision

by Ken McEntee

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

Decision date: 16 September 2021

Appeal refs: APP/V4305/C/21/3270248 & APP/V4305/C/21/3270249
Land at 24 St Andrews Drive, Huyton, Liverpool, L36 8JF

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeals are brought by Mr Barry McCormac & Miss Stacey Higdon against an enforcement notice issued by Knowsley Metropolitan Borough Council.
- The notice was issued on 4 February 2021.
- The breach of planning control as alleged in the notice is "Without the benefit of planning permission a material change of use of the Property from residential dwelling (use class C3) to a mixed use of residential dwelling and preparation and sale of hot and cold food and drink for consumption off the premises together with associated delivery service".
- The requirement of the notice is: "Cease the unauthorised use of the Property for the preparation and sale of hot and cold food and drink for consumption off the premises together with associated delivery service".
- The time period for compliance with the notice is: "Three months from when this notice takes effect".
- The appeals are 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 appeals are dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The appellants contend that they need more time to comply with the requirements of the notice in order to find suitable alternative premises and to obtain the necessary planning permission. They also contend that due to family circumstances they need to obtain premises located nearby the family home. They therefore consider that the compliance period should be extended to 9-12 months. I note the appellants' reasons for wanting more time to comply with the notice, but I am mindful that some 6 months have elapsed since the appeals were submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had some 9 months, which falls within the time period requested, in which to seek out suitable alternative premises for their business. Therefore, there does not appear to be good reason to justify extending the compliance period further. The ground (g) appeals fail accordingly.
2. However, while I am dismissing the appeals, should the appellants experience any genuine difficulties, it will be open to them to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

3. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld without variation.

K McEntee