The Planning Inspectorate

Appeal Decision

Site visit made on 26 October 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2021

Appeal Ref: APP/A5270/C/21/3276340
Unit 13, Adrienne Business Centre, Adrienne Avenue, Southall, Ealing UB1 2FJ

- 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 Mrs Henna Hafeez on behalf of Dream Occasions UK Ltd against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice was issued on 19 May 2021.
- The breach of planning control as alleged in the notice is without planning permission, the installation of one shipping container (marked with an X on the attached plan).
- The requirements of the notice are:
  1. Remove the container in its entirety; and
  2. Remove all resultant debris
- No period for compliance with the requirements is stated in the notice.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

1. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

Matters concerning the notice

2. S173(9) of the Town and Country Planning Act 1990 ('the Act') provides that an enforcement notice 'shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities…'.

3. The notice states: "You are required to complete these actions within from the date this notice takes effect". As such, the enforcement notice fails to specify a period for compliance.

4. The Council's Appeal Statement, states that this is a typo and based on the above wording, the notice requires the steps of the notice to be completed immediately on the notice becoming effective. They also state that the earlier withdrawn enforcement notice specified a date of 6 months from its effective date. However, failure to specify a period for compliance, in accordance with

s173(9), cannot be corrected by the submission of a period during the appeal process.

5. Complete omission from the notice to specify a period for compliance constitutes a failure to comply with the requirements of the Act. The period for compliance must be separate from that for taking effect. The notice is therefore defective on its face and a nullity.

Conclusion

6. I conclude that the notice is a nullity. In these circumstances, the appeal on the grounds set out in section 174(2) (f) and (g) of the 1990 Act as amended does not fall to be considered.

R Satheesan

INSPECTOR