



Appeal Decision

Site visit made on 11 April 2022

by B S Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/A4710/C/21/3278053

Stanley Works, Lucy Street, Halifax, West Yorkshire, HX3 6AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by AVA Waste Management Group Limited against an enforcement notice issued by Calderdale Metropolitan Borough Council.
- The enforcement notice was issued on 3 June 2021.
- The breach of planning control as alleged in the notice is:- (1) On 27 February 1990, planning permission 89/03405/FUL was granted for alterations to existing premises to form Waste Transfer Station, subject to conditions. Condition 2 states "No outdoor storage shall take place in any area of the site except that area hatched purple on the approved plan". It appears to the Council that that this condition has not been complied with, because material is being stored outside of the area hatched purple on the approved plan (Breach 1); (2) On 27 February 1990, planning permission 89/0345/FUL was granted for alterations to existing premises to form Waste Transfer Station, subject to conditions. Condition 3 states "No waste materials should be stored in the approved outdoor storage area other than material associated with building operations (builders' rubble) or excavation waste or topsoil". It appears to the Council that condition has not been completed with, because the approved outdoor storage is being used for the storage of waste, including green waste, wood, metals, plastic and general skip (Breach 2); (3) On 27 February 1990, planning permission 89/03405/FUL was granted for alterations to existing premises to form Waste Transfer Station, subject to conditions. Condition 5 states "No waste materials shall be stored or deposited on the designated outdoor storage area to a height exceeding 4.0 metres above ground level (as measure at ground level of land immediately forward of the main entrance to the waste hall)". It appears to the Council that this condition has not been complied with because the height of waste being stored on the exceeds 4.0 metres above ground level (Breach 3).
- The requirements of the notice are: (i) Stop outdoor storage of waste materials in any area of the site except that hatched purple on the approved plan for planning permission 89/03405 ("the approved outdoor storage area"); (ii) Stop storing waste materials in the approved storage area other than material associated with building operations (builders' rubble) or excavation waste or topsoil; (iii) Stop storing or depositing waste materials in the approved outdoor storage area to a height exceeding 4.0 metres above ground level (as measured at ground level of land immediately forward of the main entrance to the waste hall); (iv) Remove all waste materials being stored outdoors and not within the area hatched purple on the approved plan for planning permission 89/03405; (v) Remove all waste material in the approved outdoor storage area other than material associated with building operations (builders' rubble) or excavation waste or topsoil; (vi) Remove all waste materials being stored or deposited in the approved outdoor storage area to a height not exceeding 4.0 metres above ground level (as measured at ground level of land immediately forward of the main entrance to the waste hall).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (g)

2. The sole ground of appeal is that the time given to comply with the notice is too short. As there has been no other challenge to the notice, it appears that the appellants are content to comply with the requirements of the notice, albeit that they seek an extension of the compliance period to 12 months.
3. Had the appeal not been lodged, the notice would have taken effect on 2 July 2021 and the compliance period would have expired on 2 October 2021. As of the date of my site visit, the appellants have benefitted from the passage of 9 of the requested 12 months. I saw during my site visit that a significant amount of the outdoor storage depicted in the photographs submitted by the Council had been removed in this interim period. In this context, the compliance period of 3 months does not appear to be unreasonable to address the remaining requirements of the notice.
4. On 9 February 2022, the Council granted planning permission for 'demolition of building to facilitate new steel framed industrial building' (ref: 21/00732/FUL). I understand that the erection of this building will result in a new working pattern which will permanently resolve the outdoor storage issue which is the subject of this notice.
5. There appears to be a firm intention on the appellants' part to proceed with the approved scheme. However, the grant of planning permission, of itself, offers no guarantee that the development will be carried out and that the outstanding breach of planning control will be resolved. Therefore, even though it is highly unlikely that the new building could be constructed and become operational within the present 3 months compliance period, I see no reason to vary the period set out in the notice. The Council has the discretion under S.173A(1)(b) of the Act, as amended, to extend any period for compliance formally if it is satisfied that suitable progress is being made towards resolving the planning breach, without prejudicing its right to take further action.
6. Accordingly, the appeal fails and the enforcement notice is upheld.

B S Rogers

INSPECTOR