
Appeal Decision

Site visit made on 24 May 2022

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 23 June 2022

Appeal Ref: APP/B0230/C/21/3285686

Land at 135 New Bedford Road, Luton, Bedfordshire LU3 1LF

- The appeal is made by Naeem Raza under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 21/00046/UCU) issued by Luton Borough Council on 16 September 2021.
 - The breach of planning control alleged in the notice is:-
 - “(1) the change of use of the Land from a residential use to a mixed use as residential and for motor vehicle storage (“the Motor Vehicle Storage Use”)
 - (2) the installation of a concrete base front parking area on the Land, in the approximate position shown shaded green on the attached plan (“the Hard Standing”)”
 - The requirements of the notice are as follows: -
 - “(i) Cease the Motor Vehicle Storage Use; and
 - (ii) remove all associated vehicles and auto parts from the Land.
 - (iii) Remove the Hard Standing and return that part of the Land to its previous porous condition”
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g).
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Decision

1. It is directed that paragraph 3(1) of the enforcement notice be corrected by replacing the words “residential use” in line 1 by “hotel” and the word “residential” in line 2 by “a hotel”.
2. It is directed that the enforcement notice be varied by replacing paragraph 6 by: -
 - “6. TIME FOR COMPLIANCE
 - Three months for Requirements 5(i) and 5(ii)
 - Six months for Requirement 5(iii).”
3. Subject to these directions, the appeal is dismissed and the enforcement notice is upheld as corrected and varied.

Reasons for the decision

4. The appellant makes the following points: the property is used as a hotel; hardstanding has existed at the front for several years for parking related to the hotel; the planning permission for an extension to the hotel includes four
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parking spaces at the front; drainage works could be carried out to deal with surface water runoff from the hardstanding on to the highway and a period of three years should be allowed for this to be done in conjunction with the works authorised by the permission.

5. The Council agree that the property is used as a hotel and not as stated in the notice and they accept that the planning permission is relevant. They point out that the motor vehicle storage which is taking place is unauthorised and harms surrounding amenity. They agree that the installation of adequate drainage to capture surface runoff water from the hardstanding will be an acceptable solution provided it is carried out within a reasonable period.
6. I have corrected the notice so that it now refers to the hotel. There are no issues between the parties about the motor vehicle storage use. At the time of my visit there were no vehicles on the land and there is no reason to alter the three-month compliance period in this respect.
7. Although the parties are in agreement about a drainage solution to the hardstanding, there are no details available to me showing how this would be done. In these circumstances the requirement to remove the hardstanding should be retained, but the appellant should first be allowed sufficient time to obtain approval from the Council for the drainage works and to carry them out. It is not necessary to link these works to the works authorised by the permission and three years is therefore too long: six months should be enough and I have varied the notice accordingly.
8. I am satisfied that I can make the changes to the notice by virtue of the powers available under section 176(1) since no injustice would be caused to either party. The appeal has succeeded on grounds (f) and (g) to the extent indicated in the decision.

D.A.Hainsworth

INSPECTOR