



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 20 July 2022

Appeal ref: APP/V4630/C/22/3295849

Land at Unit 9A Arrow Industrial Estate, Straight Road, Willenhall, West Midlands.

- 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 brought by Mr Yoav Tal (Gail London Ltd) against an enforcement notice issued by Walsall Metropolitan Borough Council.
- The notice was issued on 25 February 2022.
- The breach of planning control as alleged in the notice is "Without planning permission on the Land, the material change in use from general industrial and storage and distribution uses, to the use of the Land for the purposes of storage of mixed waste materials".
- The requirements of the notice are: "5.1 Cease the use of the Land for the storage of mixed waste materials. 5.2 Remove entirely from the Land, all mixed waste materials to an approved site, licenced to accept such materials. Materials considered as waste include, but are not limited to; Household waste, commercial waste, vehicle parts and vehicle bodies, vehicle containers and other containers, tyres, metal, plastic, pipes, gas containers, refrigeration equipment, soil, concrete blocks, building construction materials and equipment, building insulation materials, furniture, paper, cardboard, timber, liquid containers. 5.3 Repair the existing boundary fence and where no fence exists, erect a secure metal weld mesh fence to prevent further access".
- The time period for compliance with Steps 5.1 and 5.2 is 2 months and the time period for compliance in relation to 5.3 is 3 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.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The appellant's agent contends that the appellant has been advised by a neighbouring skip company that it will take 6-9 months to clear the site. The appellant has obtained quotes for earlier clearance but found they are in the region of £350,000 and he contends he doesn't currently have such funds. Therefore, he requests that the compliance period be extended to 9 months to allow time for him to obtain the necessary funds and for the site to be cleared. Nevertheless, I note he has already instructed a company to carry out the works and they began clearing the site a month before submission of this appeal. Therefore, it is reasonable to conclude that works have now been progressing for the last 4 months. Indeed, the appellant has provided photographic evidence to demonstrate that good progress has been made. As the compliance period will begin again from the date of this decision, the appellant will effectively have had

some 6 months to clear the site and to improve his financial position. I consider this period to be reasonable and proportionate. In these circumstances, I am not satisfied there is good reason to extend the compliance period further. The ground (g) appeal fails accordingly.

2. However, while I am dismissing the appeal, should the appellant experience any genuine difficulties in meeting the compliance deadline, it will be open to him to submit a further 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 appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee