



Appeal Decision

Site visit made on 23 August 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/M1595/C/22/3290723

Land known as Brewers Farm, Brentwood Road, Orsett, Essex RM16 3HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mrs Diana Oprea, JDR Trans Limited against an enforcement notice issued by Thurrock Borough Council.
- The notice was issued on 22 December 2021.
- The breach of planning control as alleged in the notice is: i) Without planning permission the material change of use of the Land to sui generis lorry parking use. ii) The unauthorised development of the creation of an extended area of hardstanding to facilitate the sui generis lorry parking and lorry storage use, installation of gates and fences and the use of a mobile home as a booking and welfare facilities in connection with the operation of that use.
- The requirements of the notice are to: i) Cease the unauthorised use of the Land for a sui generis lorry park, storage of lorries and any other unauthorised incidental or ancillary uses. ii) Remove from the Land the unauthorised hardstanding, including any associated planings and shingle and remove from the Land the mobile home, fencing and gates used in connection with the unauthorised use. iii) Remove from the Land any machinery, materials, vehicles, waste, rubble and debris associated with the works carried out to comply the requirements i and ii, detailed above.
- The periods for compliance with the requirements are: Requirement i) immediately from the date the notice takes effect; Requirements ii and iii) within two calendar months of the date the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: No further action is taken

The Notice

1. The notice relates to an unauthorised material change of use of land and associated operational development at the appeal site. The first requirement of the notice requires the unauthorised use of the land to cease 'immediately from the date the notice takes effect'.
2. Section 173(9) of the Act states: '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...'. It has been held¹ that 'immediately' is not a period for the purposes of section 173(9), which should have a starting point and an end point with a period of time in between. The period for compliance with the notice must be separate from that for it taking effect.
3. As the notice fails to specify a period of time for the first requirement to be complied with, it does not accord with section 173(9) of the Act. Therefore, the notice is a nullity, without legal effect, and no further action can be taken in

¹ *R (oao Lynes & Lynes) v West Berkshire DC* [2003] JPL 1137

this appeal. By virtue of section 171B(4)(b) of the Act the Council is not prevented from taking further enforcement action against the alleged breach of planning control.

4. I conclude that the notice is a nullity. In these circumstances, the appeal on the ground set out in section 174(2)(a) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Formal Decision

5. Since the notice is found to be a nullity no further action will be taken in connection with this 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.

L Douglas

INSPECTOR