

Appeal Decision

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 27th September 2024

Appeal Ref: APP/C1760/C/24/3341142

Thruxton Down Farm, Thruxton Down, Andover, SP4 0EG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Robert Taylor Ltd against an enforcement notice issued by Test Valley Borough Council.
 - The notice was issued on 22 February 2024.
 - The breach of planning control as alleged in the notice is the material change of use of land and premises to a mixed use that comprises of; storage and distribution (Class B8) of goods, materials, equipment, caravans, vehicles and trailers, and; use as a vehicle repair workshop (sui generis). Along with the carrying out of associated operational development, comprising of; the laying of hard surfacing, located in the approximate position, outlined in BLUE on the attached plan; and the formation of an earth bund, located in the approximate position, outlined in GREEN on the attached plan.
 - The requirements of the notice are to: 1. Permanently cease the use of the land and premises for the following mixed use purposes: storage and distribution (Class B8) of goods, materials, equipment, caravans, vehicles and trailers; vehicle repair shop. 2. Remove the hard surfacing (outlined in BLUE on the attached plan) from the land and re-level the area by layering up to six (6) inches of topsoil, spread evenly across the land. 3. Remove the earth bund (outlined in GREEN on the attached plan) from the land in its entirety
 - The period for compliance with the requirements 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).
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Decision

1. It is directed that the enforcement notice is varied by: the deletion of 3 months and its substitution with: 9 months as the period for compliance for Requirement 1; and 12 months as the period for compliance with Requirements 2 and 3.
2. Subject to the variations, the enforcement notice is upheld.

Preliminary Matters

3. The previously linked appeal reference APP/C1760/W/24/3341082 has been withdrawn, as have grounds of appeal (a), (c), (d) and (f) in this case.

4. The parties were informed that the remaining ground (g) would be dealt with by written representations and that there would not need to be a site visit. The appeal has proceeded on that basis and the main parties were given the opportunity to provide final comments regarding the ground (g) appeal prior to this determination.

Ground (g)

5. The appellant seeks an extension of the compliance period to 2 years. This is in part to allow a recently submitted planning application in relation to the appeal site to be considered. They also say that it would be reasonable to allow 18 months to find alternative accommodation for the businesses operating from the site and for any relocation including transfer of the operators' licence. The further 6 months would allow time for the necessary physical works to be undertaken following cessation of the use.
6. The notice was issued because the development causes harm to the character and appearance of the area, is in conflict with Policy LE16, and because it has not been demonstrated that the site can be accessed safely and efficiently. The information before me shows that the Highways Authority still have highway safety concerns in relation to the development which have not been fully addressed.
7. Granting a long extension of time for compliance can be akin to granting a temporary planning permission. Notwithstanding that it may be difficult to locate an alternative site from which to operate, it would not be appropriate in this case to allow such a long period taking into account the harm caused by the development, particularly in relation to highway safety. The remedial operational works will need to take place following the cessation of the commercial use of the site, and the two-stage approach is therefore sensible.
8. It is therefore reasonable in all of the circumstances to vary the notice so that the use must permanently cease within 9 months with the removal of the hardstanding and earth bund to be undertaken within a further 3 months. This allows time for the current planning application to be assessed, and for the appellants to consider arrangements for relocation if required.

Conclusion

9. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Zoë Franks

INSPECTOR