



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and local government

Decision date: 4 December 2024

Appeal ref: APP/Q2371/C/24/3350860

Land at Simonswood Industrial Estate, Stopgate Lane, Kirkby, Merseyside.

- 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 James Napier (J Napier Tipper Hire Ltd) against an enforcement notice issued by Lancashire County Council.
- The notice was issued on 25 July 2024.
- The breach of planning control as alleged in the notice is "Without planning permission, the change of use of land to a facility for the processing of inert waste materials".
- The requirements of the notice are: "(i) Cease the importation of waste to the site and the processing of such materials (ii) Remove all s stockpiles of inert waste and processed aggregates from the site".
- The time periods for compliance with the notice is "(i) Within one day of the date when this notice takes effect (ii) Within a period of two months from the date on which this notice takes effect".
- 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 allowed in part and the enforcement notice is varied.

Reasons for the decision

1. I note that since the appeal was submitted both parties are now content with a new compliance period of one month in relation to requirement (i). Therefore, I shall direct that the notice be varied accordingly. With regards to requirement (ii), the main basis of the appellant's case is that he has submitted a planning application to address the Council's concerns and requests in his initial submission that the compliance period be extended to 6 months, but in his final comments, he requests that the period be extended to 13 weeks, or until such time as the planning application has been determined. I note that the Council has stated they would find an extension of four months to the compliance period with requirement (ii) to be acceptable. That being the case, as more than three months has elapsed since the appeal was submitted, and the fact that the compliance period will begin again from the date of this decision, the appellant will effectively have had more than 7 months in which to carry out the necessary works in order to comply with the requirements of the notice, which is longer than that requested. Therefore, I see no good reason to extend compliance period (ii) further than that suggested by the Council and will direct that the notice be varied to reflect the new time period.
2. To this extent, the ground (g) appeal succeeds accordingly.

3. Should the planning application to which the appellant refers not be determined within the new time periods, it will be open to him to submit to a request to the Council to use their powers under section 173A(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

4. For the reasons given above, the appeal is allowed and it is directed that the enforcement notice be varied under '**Time for Compliance**' (i) by the deletion of "Within one day of the date when this notice takes effect", with the substitution of "one month from the date this notice takes effect", and (ii), the deletion of "Within a period of two months from the date this notice takes effect", with the substitution of "Within four months from the date this notice takes effect". Subject to these variations the notice is upheld.

K McEntee