



Appeal Decision

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/H5960/C/23/3320323

134 West Hill, London SW15 2UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Motor Fuel Group against an enforcement notice issued by the Council of the London Borough of Wandsworth.
 - The notice was issued on 8 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission and within the last four years, the unauthorised erection of a forecourt shop/sales building at the property.
 - The requirements of the notice are: 1. Remove the unauthorised forecourt shop/sales building from the property; or 2. Reduce the height of the unauthorised forecourt shop/sales building so that it accords with the approved scheme under the original planning permission dated 10 September 2019 granted under planning reference 2019/1560 or so that it accords with approved schemes under the planning permissions, granted pursuant to section 73 of the 1990 Act, pursuant to the following planning references: 2020/1397 – planning permission dated 24 June 2020; 2020/3592 – planning permission dated 20 November 2020; 2021/2693 – planning permission dated 12 October 2021; and 3. Remove from the property all debris arising from the compliance with step 1 or step 2 above.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended). 177(5) of the Act. Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
-

Decision

1. It is directed that the enforcement notice is varied by in paragraph 5, step 2 inserting a fourth bullet point '*2023/0584 – planning permission dated 11 May 2023*' and in paragraph 6, substituting '*four months*' with '*6 months*' as the period for compliance. Subject to these variations the enforcement notice is upheld.

Preliminary Matters

2. The appeal can be determined without the need for a site visit, as I have been able to reach a decision based on the information already available.
3. Planning merits considerations are not before me in this appeal. This is because there is no deemed planning application following an appeal made under ground (a) and the relevant fee has not been paid.
4. Since the enforcement notice was issued, the Council have granted planning permission for a building of revised design and overall height¹. At s173(a), the Act provides for remedying the breach including by making any development comply with the terms of any planning permission which has been granted in respect of the land. Therefore, although no appeal was made on ground (f), I shall exercise the power in s176(1)(b) of the Act to vary the terms of the notice to also refer to the latest permission in step 2. There would be no uncertainty, as it is clear what the appellant would need to do to comply with the notice as varied. There would be no injustice; the Council would not be in a worse position than had the appellant

¹ Council Ref: 2023/0584

complied with the notice as issued or otherwise undertook works to accord with the recent planning permission.

Ground (g) appeal

5. The ground of appeal is that the time specified for complying with the enforcement notice requirements falls short of what should reasonably be allowed.
6. The notice attacks a freestanding single storey retail building erected on part of the forecourt of a petrol filling station.
7. The appellant sought an extension of the compliance period from four to nine months. This is on the basis of the minimum time they considered would be needed to obtain consent for the remedial works from the landlord-the appellant having a leasehold interest in the land, along with that involved in finalising design work, the lead-in time for the contractors including procuring the required building materials, and having the remedial works undertaken.
8. As the appeal is made on ground (g) alone, the compliance period is the only matter before me. As a result, the appellant cannot have any reasonable expectation of the notice being quashed. By making this limited appeal, they have already delayed the date the notice will come into effect, with the knowledge that the requirement to remove the building, or alternatively comply with one of the planning permissions granted for a structure of reduced height, would have to be complied with. I also note that the matter has been continuing for some years, with various planning permissions granted for alternative schemes and a planning appeal in respect of the building as erected being dismissed shortly before the notice was issued².
9. As far as I was made aware, nothing since the issuing of the notice would have prevented the appellant from obtaining the landlord's consent and having any final design work undertaken, whilst waiting for the appeal to be determined. According to the details supplied by the appellant, the contractors would require a lead-in time of four weeks for preparation including procuring materials, with the remedial works themselves taking around fourteen weeks to complete.
10. Taking the above matters into account, I consider that the compliance period should be extended, but only to six months. The Council agreed that a six-month compliance period would be reasonable. It would afford sufficient time for preparation and completion of the remedial works, whilst also allowing for unforeseen delays-for example in the event of spells of inclement weather conditions. As so extended, the compliance period would therefore strike an appropriate balance between remedying the breach as soon as practicable whilst not imposing a disproportionate burden on the appellant. Any longer extension however would do little other than to perpetuate the breach and the planning harm identified in the notice.

Conclusion

11. For the reasons given above, I conclude that a reasonable period for compliance would be six months and I shall vary the enforcement notice accordingly, prior to upholding it. The appeal on ground (g) succeeds to that extent.

Stephen Hawkins

INSPECTOR

² Appeal Ref: APP/H5960/W/22/3298184