

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	The Chair and Members of Planning, Regulatory and General Licensing
Report Subject	Enforcement Appeal Update: Land at Star Fields, Ebbw Vale
Report Author	Planning Compliance Officer
Directorate	Regeneration and Community Services
Date of meeting	01st October 2020
Date Signed off by Monitoring Officer	

Report Information

1. Purpose of Report

To advise Members of the decision of the Planning Inspectorate in respect of an appeal against the serving of an Enforcement Notice. The requirements of the Notice were:

- i. Cease the use of the land edged in red on the attached plan for the importation and deposition of waste.
- ii. Remove all waste subject of this breach and associated earthworks from within the site hatched blue on the attached plan, remove from the site edged red on the attached plan and responsibly dispose of said waste.
- iii. Reinstate the land hatched blue to its former condition prior to the importation of waste and reseed with an appropriate seed mix

The period for compliance with the requirements were:

- i. 1 day from the date the Notice takes effect
- ii. Within three months from the date the Notice takes effect

- iii. Within the first planting season immediately following removal of the waste as required by step (ii) above.

The notice was issued on 24th February 2020 and took effect on 23rd March 2020.

The notice was served on the landowner and the tenant. An appeal was logged on 03rd June 2020 by the landowner (the appellant).

2. Scope of the Report

The breach of planning consisted of an unauthorised material change of use of the land for importation, deposition and disposal of waste materials.

The land is located in a visually prominent location on the hillside above Ebbw Vale and within the Special Landscape Area (SLA) Mynydd Carn-y-Cefn & Cefn yr Arail. The land also falls within the Ebbw Fawr valley sides landscape type of the SLA.

The disposal of waste is the lowest priority waste management option within the waste hierarchy and no life cycle assessment has been undertaken to justify departure from the waste hierarchy.

Moreover, no exceptional circumstances have been demonstrated based on the necessary use of waste material to address issues of instability, landscape, flood risk, matters relating to safety, or to enable the land to be used for an appropriate end use.

Accordingly, the unauthorised change of use of the land is contrary to Local Development Plan Policy SP13, paragraphs 5.13.4, 5.13.5 and 5.13.10 of Planning Policy Wales (Edition 10, December 2018), and paragraphs 2.6, 2.7, 4.4 and 4.23 Technical Advice Note 21: Waste (February 2014).

The landowner appealed against the service of the notice, but only on the grounds that the time for compliance for requirement (ii) is insufficient to resolve the breach. The appellant claimed that a period of 12 months would be needed. However the appellant also indicated that the tenant would be responsible for the removal of the materials.

The tenant subsequently made representations as part of the appeal process, indicating that a period of 6 – 9 months would be achievable. This includes any allowances for the lockdown as a result of the Coronavirus (Covid-19) pandemic.

The Inspector's decision was received on 11th September 2020 (the decision letter is also attached for Members information).

Whilst the Inspector agreed with the Council's assessment that the use of the land has been materially changed and that the period of 3 months is not unduly onerous, the Inspector notes that some allowances would be necessary to accommodate issues such as inclement weather.

Accordingly the Inspector agrees that extending the compliance period for the removal of materials to 6 months is justified on this occasion.

For the above reasons the appeal on ground (g) is therefore **ALLOWED** and the compliance period of requirement (ii) of the Notice is extended to 6 months.

The site will now be monitored to ensure that the amended Enforcement Notice is complied with within 6 months of the Inspector's decision.

3. Recommendation/s for Consideration

1. That Members note for information, the appeal decision for Enforcement Notice CO/2019/00105 as attached at **Appendix A**.