



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/07/20

gan A L McCooey BA MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11.09.2020

Appeal Decision

Site visit made on 27/07/20

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11.09.2020

Appeal Ref: APP/X6910/C/20/3248862

Site address: Star Fields, Mountain Road, Ebbw Vale

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 made by Mr Richard Henton against an enforcement notice issued by Blaenau Gwent County Borough Council.
 - The enforcement notice, numbered C/19/0105, was issued on 24 February 2020.
 - The breach of planning control as alleged in the notice is the unauthorised change of use of the land for the importation, deposition and disposal of waste material and associated engineering works contained within the area hatched in blue on the attached plan.
 - The requirements of the notice are:
 - (i) Cease the use of the land edged 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 area hatched in 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 is: for (i) 1 day from the date the notice takes effect; for (ii) within 3 months from the date the notice takes effect and for (iii) within the first planting season immediately following removal of the waste as required by step (ii) above.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 (the Act) as amended.
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Decision

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 3 months in the time for compliance with requirement (ii) and the substitution of 6 months as the period for compliance. Subject to these variations the enforcement notice is upheld.

Reasons

2. The site is in an elevated location on the valley side in open countryside above Ebbw Vale town centre and The Works. The site is within a Special Landscape Area (SLA). There are a number of buildings and structures on the site, which has planning
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permission for breeding kennels and storage granted on appeal.¹ The waste material has been tipped on the western side of the site. The waste deposit is prominent in close views and also in widespread views from the valley floor below and from across the valley.

3. The Council has informally estimated the amount of material that has been tipped on the land using Google Earth and photographs. This has resulted in a calculation that a single 20 tonne lorry movement per day (Monday to Friday) for 3 months would suffice to clear the material. Whilst on the face of it this does not appear to be unduly onerous, the Council's calculations were not based on any site survey and may not be accurate. I also consider that some allowance would be necessary to allow for obtaining the necessary plant and for contingencies such as inclement weather affecting the site and its road access, which is narrow and very steep.
4. The appellant's evidence indicated that 12 months for compliance would be needed. This would be excessive given the harm caused by the tipping to the character and appearance of the land within an SLA. However, the appellant also indicates that the tenant would be responsible for the removal of the material. The tenant has made representations indicating that a period of 6 to 9 months would be achievable. This includes an allowance for the shutdown caused by the current Covid-19 pandemic. I therefore consider that a 6-month period for compliance with requirement (ii) is justified. I note that the Local Planning Authority has powers under s173A of the Act to extend any period specified on an enforcement notice, should any unforeseen circumstances arise.

Conclusion

5. I have taken all relevant information into account and conclude that the period for compliance with the requirements of the notice should be extended to 6 months. The appeal on ground (g) therefore succeeds to that extent.

A L McCooey

Inspector

¹ APP/X6910/A/19/3243676