



Appeal Decision

Site visit made on 16 September 2019

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/J3720/C/18/3213430

Gaydon Service Station, Banbury Road, Gaydon, Warwickshire CV35 0HA

- 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 Euro Garages Limited against an enforcement notice issued by Stratford-on-Avon District Council.
- The enforcement notice was issued on 2 October 2018.
- The breach of planning control as alleged in the notice is without planning permission the erection of two extensions (in the approximate positions shaded on the Plan) and associated engineering operations to reconfigure the parking layout on the land.
- The requirements of the notice are:
 - a) Demolish the extensions which are identified in the shaded areas on the attached plan.
 - b) Reinstate the north and east elevation on the sales building with external facing materials to match the host building.
 - c) Remove all the materials associated with the demolition of the extensions and reinstatement of the sales building elevations (as required by steps a) and b) above) from the land.
 - d) Re-instate the parking arrangement approved by planning permission 16/00391/VARY in accordance with Drawing No. 020 Rev.A received by the Local Planning Authority on the 4 April 2005 (a copy is attached to this Notice).
 - e) Re-instate the kerb lines which are shown to be retained on Drawing No. 020 Rev.A received by the Local Planning Authority on the 4 April 2005 (a copy is attached to this Notice).
- The period for compliance with the requirements is a) - e) inclusive 4 months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

The appeal on ground (f)

1. The appeal on ground (f) is that the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is necessary.
2. The purposes of an enforcement notice are set out in section 173(4) of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). The appeal on ground (f) could only succeed if the appellant's proposed lesser steps would remedy the breach of planning control.
3. The appeal property has a planning history which includes an appeal dated 18 April 2018 (Ref: APP/J3720/W/17/3190869) against a refusal to grant planning permission for a shop extension at side and replacement storage unit

at rear. Also, planning permission was refused on 22 May 2019 Ref: 18/03008/FUL for "proposed shop extension at side and replacement storage unit at rear and reconfiguration of parking area." In effect for a similar development subject of the enforcement notice.

4. With reference to planning policy, the Council's parking standards and the plans relating to the refused planning application¹, the appellant suggests lesser steps of changing the layout to make the development acceptable by way of a planning application for an alternative layout. No appeal has been brought on ground (a) and an appeal on ground (f) cannot be used to consider the planning merits or to bring about a deemed application for an alternative development. Moreover, there is no guarantee that if submitted, a revised layout would be approved by the Council. In these circumstances, the only point at issue under ground (f) is whether the enforcement notice's requirements exceed those necessary to achieve the purpose which in this case is to remedy the alleged breach of planning control. Leaving the extensions in position would not remedy the breach.
5. In order to remedy the breach of planning control, it is not excessive to require the demolition of the extensions, the reinstatement of the elevations of the sales building, the removal of all associated debris, the reinstatement of the former parking layout and the reinstatement of the kerb lines. I conclude that no lesser steps would remedy the breach of planning control that has occurred. The appeal on ground (f) therefore fails.

The appeal on ground (g)

6. Ground (g) is that the time given to comply with the requirements of the notice is too short. The appellant has requested six months to allow for alternative storage arrangements to be made and the work to be carried out. Whilst the Council considers that four months is sufficient time to comply with the notice, in its appeal submissions the Council acknowledges that the compliance period could be extended to six months to allow the appellant to seek alternative storage arrangements and carry out the necessary works.
7. Having regard to the submissions from both parties, I consider that the period for compliance with the notice should be increased to six months and the appeal on ground (g) succeeds.

Formal Decision

8. It is directed that the enforcement notice be varied by the deletion of the words "4 months" from paragraph 6 (Time for Compliance) of the notice and the substitution therefor of the words "6 months".
9. Subject to the above variation the appeal is dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR

¹ Ref: 18/03008/FUL