



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 18 May 2020

Appeal ref: APP/B9506/C/20/3245999

Land at Lower Lepe Camping, Lepe Road, Exbury, Hants, SO45 1AD

- 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 H McCowen (The Cadland Estate) against an enforcement notice issued by New Forest National Park Authority”.
- The notice was issued on 13 January 2020.
- The breach of planning control as alleged in the notice is “Without planning permission engineering operations resulting in the construction of a track in the approximate position coloured blue on the Plan attached to this Notice”.
- The requirements of the notice are: “5.1 Permanently remove the hardstanding and all other materials used in the construction of the track shown in the approximate position coloured blue on the Plan attached to this Notice from the land affected. 5.2 Restore the land shown in the approximate position coloured blue on the Plan attached to this Notice to its previous state prior to the breach of planning control, by levelling the site to surrounding ground levels using soil and reseeded with grass. 5.3 Permanently remove from the land all debris resulting from compliance with paragraphs 5.1 and 5.2 above. 5.4 Cease the use of the land affected for the storage of non-agricultural items. 5.5 Permanently remove from the land affected all items that are not related to agriculture including those items currently in the location coloured yellow on the plan attached to this Notice”.
- The time period for compliance with the notice is “3 months after 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 dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The main basis of the appellant’s case is that he requires more time to comply with the notice in order to await the outcome of planning appeal APP/B9506/W/19/3241260 for retrospective planning permission for retention of the access track. However, I note that a decision dismissing that appeal was issued on 25 March 2020. I am also am mindful that some 4 months have elapsed since the appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision the appellant will have had some 7 months in which to carry out the necessary works to comply with the requirements of the notice. I consider this period to be reasonable. I note the appellant’s concerns about what the ground conditions may be in March, but this is no longer a relevant concern as we are now in May with the time period for compliance about to begin again. In these circumstances, I cannot conclude there is good reason to extend the compliance

period further and consider the 3 months given in the notice to be adequate. The ground (g) appeal fails accordingly.

2. However, while I am dismissing the appeal, I am also conscious of the current situation with regard to the COVID-19 pandemic, which could potentially impact on the appellant's ability to carry out the required works. Therefore, should the appellant experience any genuine difficulties, it is open to him to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

3. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee