
Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 25/11/19

gan Hywel Wyn Jones BA(Hons) BTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 23.01.2020

Appeal Decision

Site visit made on 25/11/19

by Hywel Wyn Jones BA(Hons) BTP
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 23.01.2020

Appeal Ref: APP/B6855/C/19/3236790

Site address: Land at 78 Newton Road, Mumbles, Swansea, SA3 4SL

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 D Roderick on behalf of Oyster Cabs Mumbles Ltd against an enforcement notice issued by the City and County of Swansea Council.
 - The enforcement notice, numbered ENF2017/0375, was issued on 9 August 2019.
 - The breach of planning control as alleged in the notice is: *Without planning permission, a material change of use of the land to a parking area for taxis and private motor vehicles.*
 - The requirement of the notice is: *Cease the use of the land for the parking of taxis and private motor vehicles.*
 - The period for compliance with the requirement is 3 months beginning with the day on which this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have 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 as amended have lapsed.
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Decision

1. I dismiss the appeal and uphold the enforcement notice.

Background

2. My site visit revealed that there were cars and vans parked on 2 parts of the site. The main area lies near to the site's vehicular access onto Limekiln Road. In the northern part of the site, there was an another area of parking which was on a platform elevated above the main parking area, and was used by taxis. Estimates by the Council of some 40 vehicles being parked on the site are consistent with my observation. There was also some builders' material and waste mainly along the southern boundary of the site.
 3. Temporary permission (ref: 2017/1595/FUL) for no longer than 2 years was granted in 2017. It allowed for the parking of a maximum 6 vehicles for use in conjunction with the construction of the former British Legion site on an identified portion of the southern part of the appeal site. It is now time expired. A subsequent application (ref: 2018/0320/FUL) for a car park for 20 vehicles was refused.
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Ground (c) Appeal

4. That the parking may not be used for commercial purposes does not alter the fact that the use of land for such an activity represents a material change in its use. The extent of vehicular movements associated with the activity and its visual impact are clear indications that the use of the site has been materially changed.
5. The appellant opines that the extent of the site identified in the enforcement notice plan exceeds the area in use for parking, although no detail to support the extent of the active area of use has been provided. There is no suggestion that the site area does not encompass a single planning unit and whilst some parts of the site may not be in active use for parking I do not consider that this is a matter that requires correction.
6. I have dealt with the other matters raised in support of this ground of appeal in my consideration of ground (f). As the use constitutes a breach of planning control the ground (c) appeal must fail.

Ground (f) Appeal

7. The appellant considers that the notice prevents 'authorised parking uses on the site'. However, no detail of what those authorised uses may be has been provided. As the Council points out, any parking that may be associated with an existing or future lawful use of the site would not be affected by the Notice.
8. It is evident from the notice and the Council's statement that its purpose is to address the injury to amenity. In the circumstances the requirement to cease the use is not excessive. There is nothing before me to suggest that lesser steps would satisfy the purpose of serving the notice. This ground of appeal must, therefore, also fail.

Ground (g) Appeal

9. The appellant considers the stipulated 3-month compliance period to be too short and could lead to additional on-street parking congestion in the locality. No alternative timescale or justification for an extended period has been presented. On the available evidence I find that the period stated is sufficient to ensure compliance with the requirement of the notice. As the period is a reasonable one this ground of appeal does not succeed.

Conclusion

10. I have found that the development constitutes a breach of planning control and that the notice's requirement and period for compliance are reasonable. I shall, therefore, uphold the notice.
11. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Hywel Wyn Jones

INSPECTOR