
Appeal Decision

Site visit made on 21 March 2017

by Mr N P Freeman BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 March 2017

Appeal Ref: APP/L3815/C/16/3152679

Land south of Clarefield Copse, Dumpford Lane, Nyewood, South Harting, West Sussex, GU31 5JL

- 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 Simon Sprackling against an enforcement notice issued by Chichester District Council.
- The enforcement notice, numbered HT/24, was issued on 9 May 2016.
- The breach of planning control as alleged in the notice is "Without planning permission, the formation of a hard surface in the approximate position shown on the attached plan".
- The requirements of the notice are:
 - (i) Break up the hard surfaced area;
 - (ii) Dig out and remove the hardcore, rubble and plastic membrane from the land;
 - (iii) Remove all the resultant debris from the land; and
 - (iv) Level and reseed the land with grass.
- The period for compliance with the requirements is two months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Decision: The appeal is dismissed and the enforcement notice upheld.

Ground (c)

1. The alleged breach concerns an area of hardsurfacing, comprising hardcore topped with compacted scalpings, located adjacent to a public footpath (No. 872) near an access gate to lakes used by the Petersfield & District Angling Club (PDAC). According to the Council it measures about 10m wide by 15-20m long and was previously part of the adjacent field.
2. The appellant asserts in the grounds of appeal that it was created to provide a turning area at the end of the track, which is also the public footpath, for tractors and other agricultural machinery. On this basis the claim is that it falls within agricultural "permitted development" rights conveyed by Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
3. The Council dispute this referring in their statement to a copy of a "flyer" leaflet produced by the PDAC which refers to the creation of a car park at the bottom of the track requesting members' participation in its construction on the weekend of 22 and 23 August 2015. Council officers visited the land on 26

August 2015 and noted that the development had taken place. The Council assert this clearly demonstrates that the primary reason for laying the surfacing was not for agricultural purposes but to provide a parking area for anglers to use close to the fishing lakes. This claim has not been subsequently disputed by the appellant.

4. The works that have taken place amount to engineering operations which constitute "development" as so defined by s55(1) of the 1990 Act. As to the claim that the works were carried out to facilitate the agricultural use of the land the evidence before me is to the contrary and I have no reason to doubt the Council's assertion that the primary reason why the surfacing was laid was to provide a parking area for anglers. I noted on the site visit that there is a larger hardsurfaced area to the north by a barn accessed from the same track which according to the appellant has been used for the parking of anglers' cars in the past. He also volunteered the comment at the site visit that the new area would enable disabled anglers to park closer to the lakes.
5. Drawing these points together I conclude that the development that has taken place is not reasonably necessary for the purposes of agriculture within the unit and hence it does come within the terms of agricultural permitted development as defined in Part 6 of Schedule 2 of the GPDO. Rather it is development that has occurred primarily for another purpose, namely to provide a car park for anglers, for which there is no planning permission or permitted development rights. Accordingly there has been a breach of planning control and the appeal on ground (c) fails.

NP Freeman

INSPECTOR