
Appeal Decisions

Site visit made on 31 May 2017

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 06 July 2017

Appeals A and B: APP/G2245/C/3146343/4

The Kent and Surrey Golf Club, Crouch House Road, Edenbridge TN8 5LQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Greenside Golf and Leisure Ltd (A) and David Taylor (B) against an enforcement notice issued by Sevenoaks District Council.
 - The enforcement notice was issued on 12 February 2016.
 - The breach of planning control as alleged in the notice is the carrying out of engineering operations being the erection of an earth and soil bund (measuring approximately 280m long x 7-20m wide and between 1 and 3.8m high) on the land.
 - The requirements of the notice are 1. Remove the bund and all resultant materials from the land and 2. Reinstate the land to its condition before the engineering operation.
 - The period for compliance with the requirements is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is quashed.

Reasons

Procedural Matters and Ground (b)

2. An earth and soil bund has been formed to the side of the first fairway. Its position was set out on the plan attached to the enforcement notice. It is now acknowledged by the Council that the arrangement shown is not correct and another plan has been produced to show the position and arrangement of the bund. The Council has suggested the enforcement notice could be amended to include a plan showing the whole of the land. The Council also suggests including a further plan and amending the description to include the whole of the bund as constructed. The suggested wording is 'without planning permission the carrying out of engineering operations being the erection of an earth and soil bund (measuring approximately 350 metres in length x (between) 7 metres – 60 metres in depth x (between) 1 metre – 3.8 metres in height) on the land, shown shaded and edged with a bold black line on land.
3. The Council correctly indicate that there is no requirement to include a plan with an enforcement notice. However, if a plan is provided, to my mind it is important that it is correct as it becomes part of the enforcement notice. The difficulty here is that in any case it is accepted by the Council that the numerical description of the bund as built is not correct and they also suggest amendment of the wording.

4. In order to explain why the description is important in this case, I shall briefly explain my preliminary conclusions. At the site visit the relatively small and low central part of the bund was inoffensive and generally what might be expected as part of the earth works around a golf course. Apart from necessary adjustments to allow the footpath to run on its course, it would seem reasonable to consider retaining this part. At the clubhouse end the bund is wider and higher and more imposing, but it provides a good degree of screening for the very utilitarian Green Keepers building and again there would be arguments for keeping it. The only part of the bund that causes great concern is the large area at the far end away from the clubhouse. While there are other large bunds, such as around the driving range, there are good reasons for them. I do not consider that the bund overall can be considered as a boundary structure, because of the enormous size and mass and parts form no logical boundary. There appears to be no good reason for the raising of this large area of land at the end.
5. Unfortunately it would appear that the majority of this area is not included on the original enforcement notice plan. The bund identified turns north toward the First Green rather than south away from the First Green as actually occurs. Therefore, the area that enforcement action is necessary is not actually part of the enforcement notice. The amendment to the description suggested is also in part to cover some of this area. Furthermore there could be some confusion here as the First Green is itself on a raised earth 'bund'.
6. I also note that the Meeks who it would appear from evidence provided by the appellant were part owners in May 2016, were not directly notified of the enforcement notice, but the Council sent a letter to their solicitor. While this would not be formal notification I do not consider that this matter alone would be sufficient to warrant quashing the notice and this does not add weight to my considerations.
7. Overall, I conclude that what is described in the enforcement notice has not occurred, in that the bund to be enforced against is not on the area of the First Green as indicated by the notice, so the appeal succeeds on ground (b). I do not consider that it would be reasonable to amend the enforcement notice to cover such a large area of bund that clearly was not identified of the original notice in terms of the plan and description and therefore unfortunately I shall quash the notice.

Graham Dudley

Inspector