
Appeal Decision

Site visit made on 20 August 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/N0410/C/18/3213323

**Land at Palmers Moor Poultry Farm, Palmers Moor Lane, Iver,
Buckinghamshire SL0 9LG**

- 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 Mrs Kim Cotterill-Butler against an enforcement notice issued by South Bucks District Council.
 - The enforcement notice was issued on 28 August 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of the land to use for the parking and storage of motor vehicles in connection with airport parking.
 - The requirements of the notice are:
 - i) Cease the use of the land the storage and parking of motor vehicles; and
 - ii) Remove all motor vehicles parked or stored on the land save for those connected with the lawful agricultural use of the land.
 - The period for compliance with the requirements is five weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e) and (g) of the Town and Country Planning Act 1990 as amended.
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The Notice

1. The enforcement notice states that the land to which the notice relates to is at Palmers Moor Poultry Farm, as identified in the banner heading above, and is shown edged red on an attached plan. The plan attached to the enforcement notice is titled 'Enforcement Notice Plan Palmers Moor Poultry Farm'. However, I noted on site that the land edged red on the plan relates to Palmers Moor Farm.
2. I have powers under Section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the enforcement notice. The appeal parties are all aware of the error relating to the address and therefore I have proceeded on the basis that the address and the plan title can be corrected by the removal of the word 'Poultry' from both.

Decision

3. It is hereby directed that the enforcement notice be corrected by the deletion of the word 'Poultry' from paragraph 2 the land to which it relates and from the title of the plan attached to the enforcement notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed.

The ground (e) appeal

4. The Council have indicated that the enforcement notice was served on the appellant at the Cottage, Palmers Moor Farm, Sylvia Cotterill of Palmers Moor Farm and the Owner and Occupier of Palmers Moor Farm.
5. Section 172(2) of the Town and Country Planning Act 1990 (the 1990 Act) requires an enforcement notice to be served on the owner and the occupier of the land to which it relates and on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice. Section 329 of the 1990 Act makes provision for the service of (amongst other documents) enforcement notices. They may be served or given either –
 - (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
 - (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address; or
 - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address.
6. Section 329 of the 1990 Act also permits service of documents on the occupier of premises if it's addressed to him as "the occupier" of the premises (describing them), and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as a communication of importance and -
 - (i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or
 - (ii) it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.
7. There is no dispute that the Council did not serve a planning contravention notice in respect of this particular breach of planning control. Additionally, there is no evidence of any enquiries having been made by the Council as to the names and addresses of any occupiers or parties with an interest in the site shown edged red on the plan attached to the enforcement notice.
8. Whilst it would appear that the Council have served the enforcement notice on "the occupier" the submitted copy of the letter sent/delivered or affixed to the premises was addressed to The Occupier/s of Palmers Moor Poultry Farm and not Palmers Moor Farm. The information before me indicates that a nearby farm is named Palmers Moor Poultry Farm. Therefore, it would appear that the premises were described incorrectly, and it is not clear as to what address they were delivered to or affixed to.
9. Furthermore, the tenant/ parking operator, Maple Parking, has confirmed that they have not been formally served with a copy of the enforcement notice. In addition, Sylvia Cotterill is the appellant's mother who died more than 2 years ago, and she has been served.
10. Even though, I have found that I am able to correct the error on the enforcement notice relating to the address that error in combination with the factors outlined above means that I cannot be certain that there has not been a

failure to serve a person that is required to be served with the notice under Section 172(2) of the 1990 Act.

11. Section 176(5) of the 1990 Act permits failure to serve any person as required by section 172 of that Act to be disregarded if neither they nor the appellant have been substantially prejudiced by that failure. Even though Maple Parking is aware of the enforcement notice the submitted letter from them is undated and within it they state that they have lost the chance of lodging an appeal on their own behalf. I consider that there would be clear prejudice to this party if the appeal were to proceed as they may have wanted to submit an appeal on ground (a), particularly having regard to the consequences for them as the operator of the vehicle parking operation if the enforcement notice were to be upheld. It would not, therefore, be appropriate to disregard failure to serve them properly.
12. For the reasons given above I conclude that the appeal should succeed on ground (e). Accordingly, the enforcement notice will be quashed. In these circumstances the appeal under grounds (a), (b) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended does not need to be considered.

D. Boffin

INSPECTOR