



Appeal Decision

Site visit made on 18 November 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2020

Appeal Ref: APP/B2355/C/19/3226310

Land known as Venomous Clough Stables, lying to the south of New Line, Bacup OL13 9RU

- 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 Ms Lucy Radcliffe against an enforcement notice issued by Rossendale Borough Council.
 - The enforcement notice was issued on 29 March 2019.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, engineering operations comprising the formation of an area of hardstanding facilitated by the importation of stone materials and the excavation and levelling of another area of the land.
 - The requirements of the notice are:
 - i) Permanently remove all the stone that is contained approximately within the blue edged area from the Land edged in red.
 - ii) Reinstate and reseed the area of land within the blue edge area to its previous state as a grassed field.
 - iii) Reinstate the excavated and levelled area of land within the green edged area to its previous state as a sloping field and reseed the land to grass.
 - iv) Cease the importation and deposition of hardstanding material on the land.
 - The period for compliance with the requirements is within three months from the date this Notice takes effect, i.e. on or before the 1 August 2019.
 - The appeal is proceeding on the grounds set out in section 174(2)[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. The appeal is allowed on grounds (f) and (g), and the enforcement notice is varied: by the addition of 'imported' between the words 'the' and 'stone' in the first line of 5i) and by the deletion of 'three' months and 'i.e. on or before the 1 August 2019' and substitution of 'four' months as the period for compliance. Subject to these variations the enforcement notice is upheld.

The appeal under ground (f)

2. Section 173 of the Town and Country Planning Act 1990 (as amended) states that (3) an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes. (4) Those purposes are – (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the

- land or by restoring the land to its condition before the breach took place; or
(b) remedying any injury to amenity which has been caused by the breach.
3. Section 174 (2)(f) of the Town and Country Planning Act 1990 (as amended) allows for an appeal on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
 4. Requirement i) of the enforcement notice requires all the stone to be removed that is contained approximately within the blue edged area from the Land edged in red. The appellant suggests that the land could be reinstated to grass with top soil cover and grass seed without needing to remove all the base stone for the track. Whilst I would expect this would enable some growth of grass, the appellant has not stated where the top soil cover would be sourced from, whether it would need to be brought to site from elsewhere or the amount that would be used. In the absence of such information, it is not clear to me whether or not leaving the stones in situ would remedy the injury to amenity or would indeed cause harm itself through the importation of excessive amounts of topsoil. Moreover, leaving the stone in situ would fail to remedy the breach, which is what the notice seeks to do.
 5. The Council's concern, and the alleged breach, relate to the importation of stone materials. Since it would be common for stone to already be present within the site, either within the soil itself, or below, the requirement for all stone to be removed within the site would therefore go beyond what is required to remedy the breach. For this reason, I therefore consider the requirements should be varied to limit the removal of stone to stone which has been imported to the site. I shall vary the notice to this effect and to this extent the appeal on ground (f) succeeds.

The appeal under ground (g)

6. The appellant's case is that the shifting of base stone is labour intensive, the land is steep and is not readily accessible by vehicles and access is weather dependant. Given the timing of the appeal, I am mindful that this would result in the period for compliance extending over the winter months. Given the sloping nature of the site I agree this would make accessing the site with machinery more difficult. I therefore agree it would be reasonable to extend the period for compliance. However, I am not persuaded that it would be necessary to extend this to six months. I consider a period of four months would be more than sufficient to enable the material to be moved and the land to be reinstated.

Conclusion

7. For the reasons given above I conclude that the requirements are excessive and that a reasonable period for compliance would be four months. I am varying the notice accordingly, prior to upholding it. The appeal under grounds (f) and (g) succeeds to that extent.

M Savage

INSPECTOR