



Appeal Decisions

Site visit made on 15 September 2020

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/K3415/C/19/3239674 (Appeal A) & 3239675 (Appeal B) 42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- 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 Parmjit Singh Rana (Appeal A) and Mrs Kulwinder Kaur Rana (Appeal B) against an enforcement notice issued by Lichfield District Council.
- The enforcement notice was issued on 24 September 2019.
- The breach of planning control as alleged in the notice is without planning permission the erection of unauthorised structures and associated engineering works, comprising foundation and hardstanding as shown approximately within the area hatched black on the notice plan.
- The requirements of the notice are demolish the unauthorised structures and dig up associated engineering works, comprising foundation and hardstanding, as shown approximately within the area hatched black on the notice plan, and remove the resulting materials from the land.
- The period for compliance with the requirements is six months from when this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeals are dismissed and the enforcement notice upheld

Appeal C Ref: APP/K3415/X/19/3239719

42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs PS and KK Rana against the decision of Lichfield District Council.
- The application Ref 19/00918/CLP, dated 24 June 2019, was refused by notice dated 23 September 2019.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is completion of construction of two outbuildings to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (General Permitted Development)(England) Order 2015; or in the alternative, the erection of two outbuildings to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (General Permitted Development)(England) Order (following the demolition of the present part-built structures).

Summary Decision: The appeal is dismissed

Appeal D Ref: APP/K3415/C/19/3239720

42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a

- certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs PS and KK Rana against the decision of Lichfield District Council.
 - The application Ref 19/00919/CLP, dated 24 June 2019, was refused by notice dated 23 September 2019.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is completion of construction of an outbuilding to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (general Permitted Development)(England) Order 2015; or in the alternative, the erection of an outbuilding to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (General Permitted Development)(England) Order 2015 (following the demolition of the present part-built structure).

Summary Decision: The appeal is dismissed

Appeal E Ref: APP/K3415/C/19/3239721

42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs PS and KK Rana against the decision of Lichfield District Council.
- The application Ref 19/00920/CLP, dated 24 June 2019, was refused by notice dated 23 September 2019.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the completion of construction of an outbuilding to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (general Permitted Development)(England) Order 2015; or in the alternative, the erection of an outbuilding to the rear of the dwellinghouse under Class E, Part 1, Town and Country Planning (General Permitted Development)(England) Order 2015 (following the demolition of the present part-built structure).

Summary Decision: The appeal is dismissed

Appeal F Ref: APP/K3415/C/19/3239717

42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs PS and KK Rana against the decision of Lichfield District Council.
- The application Ref 19/00921/FUL, dated 24 June 2019, was refused by notice dated 23 September 2019.
- The development proposed is completion of outbuilding for domestic use.

Summary Decision: The appeal is dismissed

Appeal G Ref: APP/K3415/C/19/3239718

42 Blake Street, Little Aston, Sutton Coldfield, Staffordshire B74 4EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs PS and KK Rana against the decision of Lichfield District Council.
- The application Ref 19/00922/FUL, dated 24 June 2019, was refused by notice dated 23

September 2019.

- The development proposed is completion of outbuilding for domestic use.

Summary Decision: The appeal is dismissed

Application for costs

1. An application for costs was made by Mr and Mrs PS and KK Rana against Lichfield District Council. This application is the subject of a separate Decision.

Procedural Matter

2. Planning permission was granted for the extension of the house in 2017, references 17/00064/FUL and 17/00064/AMD. Condition 3 of that approval removed permitted development rights for incidental outbuildings to safeguard visual amenity and openness of the Green Belt. However, the Council advise that this permission has not been implemented and the unextended dwellinghouse benefits from permitted development rights. I have no evidence to suggest this is not the case, and so I have considered the appeal on this basis.
3. The appellants commenced construction on buildings identified as 'Building B' and 'Building C' in the curtilage of the dwellinghouse which have since been removed. These buildings do not form part of the alleged breach or the various applications before me and so have not had a bearing on my decision.

Legal grounds of appeal

Ground (c)

4. An appeal on ground (c) is made on the basis that those matters (if they occurred) do not constitute a breach of planning control. Consideration of ground (c) involves whether the matters constitute development and if so, whether the development already benefits from a grant of planning permission. The main thrust of the appellants' case on the legal grounds of appeal is that the outbuildings are permitted by Class E to Part 1 of Schedule 2 to General Permitted Development Order (GPDO) 2015 (as amended) and that the current position on site is that Buildings A and D are free-standing structures which do not conflict with the conditions and limitations of Class E.
5. Whilst there is some dispute as to the extent of transgressions of Class E, it is clear from the evidence that the appellant has altered the buildings in an effort to ensure that they comply with Permitted Development (PD) rights. Indeed, the appellant acknowledges that there has been some exceedance of the Class E limitations as a consequence of the connectivity between Buildings A and D, and Buildings D and E. I do not consider such exceedances to be immaterial.
6. PD rights only apply when the development fully accords with the limitations set out in the Order. They cannot be claimed retrospectively by the removal of an element so as to return the residual development to the permitted tolerance. Whilst the Council liaised with the appellant prior to the submission of the enforcement notice in an effort to remedy exceedances, this does not alter the fact that since the outbuildings were in breach of limitations set out in Class E, and not insignificantly so, and are therefore not lawful. As a consequence, the appeal under ground (c) must fail.

LDC Appeals

7. An application under S192(1) of the Town and Country Planning Act 1990 (as amended)(the 'Act') seeks to establish whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law.
8. Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(GPDO) allows the provision within the curtilage of the dwellinghouse of (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such... subject to conditions. Development is not permitted by Class E if (c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
9. Whilst I saw that the height of the buildings does not currently exceed the limitations set out under Class E, as set out under the ground (c) appeal above, since the construction of the buildings is not lawful, it follows that their completion would not be lawful and the LDC appeals must fail in this respect.
10. The description of the development for which an LDC was sought was written in the alternative for all three appeals, to determine whether, the construction of the buildings would be lawful following the demolition of the existing part-built structures. No 42 Blake Street comprises a detached dwelling set in very spacious grounds. The outbuildings would be located to the rear of the dwelling, close to an existing outbuilding which is identified as Building E on the submitted plans. Building E itself is a substantial outbuilding with roller shutter doors to two elevations. The appellant has put forward three options: The erection of buildings A and D; the erection of building A only; the erection of building D only.

Appeal C: Outbuildings A and D

11. Building A would have a floor space of approximately 249m² and building D would have a floor space of approximately 113m². Building A would be divided into four rooms: a gymnasium/games room, a games room, a changing room and a shower room. The gymnasium is shown laid out with various equipment including running machines, cross trainers, bikes, rowing machines, a multigym, bench press, weights area and boxing area. The games room is shown laid out with a bar, various games tables and a games area. The choice of equipment is unusually extensive and whilst there are six adults in the appellant's family, such provision is, in my experience, more reflective of a commercial gym. Whilst space around and between items of equipment would be necessary, a significant amount of additional space would be provided.
12. Building D is proposed as a garage which would accommodate up to four cars. The building would be located some distance from the highway, to the rear of

the dwellinghouse. The design and layout Building D is, in my experience, unusual for a garage. A roller shutter door to the south west elevation would provide vehicular access. Although space within the building would, in my view, be particularly generous for the parking of four cars, the position of the roller shutter door would make utilising the space within the building for vehicles difficult, particularly when other vehicles are parked in the garage.

13. Case law has established that consideration of the term "incidental to the enjoyment of the dwellinghouse" there should be some connotation of reasonableness in the circumstances of each case, it should not be based solely on the unrestrained whim of a householder¹. The test is whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose. Size is a relevant but not conclusive factor in determining whether the proposal would be incidental to the use of the main dwellinghouse.
14. The word 'incidental' connotes an element of subordination in land use terms in relation to the enjoyment of the dwelling house. The appellant has provided me with details of the floor space of the existing dwelling, which has a floor space of 190.20m² at ground floor level. Although additional accommodation is provided by a cellar, loft and garage, when compared with the footprint of the dwelling itself, the footprint of the outbuildings would be significantly greater and is an indicator that their uses are unlikely to be ancillary or subordinate to the main use of the building as a dwellinghouse. Furthermore, with respect to Building D, as a result of its distance from the rear of the main dwellinghouse, which is already set some distance from the highway, together with its layout, I consider it unlikely that the building would be utilised for the intended use.
15. Although Building D would obscure windows and a roller shutter door in the south western elevation of Building E, since the building as proposed would not be physically connected to Building E, retaining a gap of approximately 0.64m, I agree that it would be a separate building. When drawing this conclusion, I have had regard to various appeal decisions referred to by the parties². Nevertheless, for the reasons given above, I do not consider that the appellant has shown, on the balance of probabilities, that Buildings A and D are reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Appeal D: Outbuilding A

16. The general location and size of Building A would remain the same as in the previous appeals, however the layout of the building would change to incorporate parking for two vehicles. A more limited range of equipment is shown compared with the proposed layout considered above. However, concerns regarding the size of the building and the provision of additional space remain.
17. Furthermore, the location of the building so far from the highway and the position of the roller shutter door to the south west elevation would make it unlikely that the space would be utilised for parking. As a result, I do not consider that the appellant has shown, on the balance of probabilities, that

¹ Emin v SSE & Mid Sussex DC [1989] JPL 909

² APP/Q5300/X/19/3228822; APP/B9506/17/3187537 & 3187538; APP/T5150/D/17/3168501

Building A is reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Appeal E: Outbuilding D

18. The general location and size of Building D would remain the same as in the previous appeals, however the layout of the building would change to combine parking and a gym. As with the previous appeals, vehicular access would be gained via roller shutter doors in the south west elevation of the building. A range of exercise equipment would also be located within the building. The position of the roller shutter door to the south west elevation would make utilising the space within the building for parking difficult. Furthermore, there would be potential conflict between the use and layout of the building as a gym and the use and layout as a garage.
19. While the footprint of Building D would be less than that of the dwellinghouse, given the above, I consider it unlikely that the building would be utilised for the intended use. Consequently, I do not consider that the appellant has shown, on the balance of probabilities, that Building D is reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Article 3(5)

20. Article 3(5) of the GPDO states that the permission granted by Schedule 2 does not apply if (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. However, there is no dispute as to whether the dwelling, the existing building for the purposes of Article 3(5), is lawful. Furthermore, it is common ground between the parties that PD rights apply to the property. As such, Article 3(5) of the GPDO would not bite because the dwelling is lawful.
21. This conclusion is consistent with the approach set out in Asghar³. I agree that the matters before the Inspector in APP/R5510/X/12/2184172, which concerned amendments to an existing building which itself was unlawful, are not comparable to the appeal scheme and therefore have no bearing on my decision.

LDC conclusions

22. It is clear from the evidence before me that the appellants' intention was to construct a substantial building, incorporating Building E. I understand that the appellants do not wish to lose the investment that they have made in construction of the buildings and have sought to amend the buildings in an effort to comply with the GPDO. However, this has resulted in buildings which appear unsuited or excessive for the proposed uses.
23. Thus, for the reasons given above, I conclude that the appeals should fail. I have drawn my conclusions on the basis of the evidence submitted in support of the appeals and the particularities of the developments proposed. Whilst the proposed buildings would not exceed 50% of the total area of the curtilage and the proposed uses could, in principle, be considered incidental to the enjoyment of the dwellinghouse, the appellants have not demonstrated, on the

³ Mohammed Asghar v Secretary of State for the Environment and Harrogate Borough Council [1988] J.P.L. 476

balance of probabilities that the proposed buildings are reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Ground (a) appeal and S78 appeals: Main issues

24. An appeal under ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged. The provisions of S177(5) of the Act allows me to grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters.
25. In this case the enforcement notice alleges "the erection of unauthorised structures and associated engineering works, comprising foundation and hardstanding". The works to the buildings are not complete with some walls and the roofs yet to be erected, as well as windows and doors yet to be inserted. Planning permission may be granted only for those matters, as corrected or varied and I no power to grant planning permission for something completely different from that enforced against.
26. My consideration under the ground (a) appeal is therefore the structures as constructed. Appeals F and G, by contrast are made for the completion of buildings A and D respectively. Nevertheless, I consider the main issues to be common to all three appeals. The appeal site falls within an area of Green Belt. Accordingly, the main issues in each of the above appeals are:
- Whether the proposal is inappropriate development within the Green Belt for the purposes of the Framework and development plan policy; and
 - The effect of the development on the openness of the Green Belt; and
 - The effect of the development on the character and appearance of the area; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Ground (a) appeal and S78 appeals: Reasons

Whether Inappropriate Development in the Green Belt

27. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145.
28. One of the exceptions cited is the partial or complete redevelopment of previously developed land, whether redundant or in continuing use...which would not have a greater impact on the openness of the Green Belt than the existing development. The appeal site is located in the Green Belt, on the edge of a built-up area. Although the site backs onto open countryside, it fronts onto

Blake Street and appears as part of the urban area. Land in built-up areas such as residential gardens is specifically excluded from the definition of previously developed land⁴.

29. Another of the exceptions cited under paragraph 145 of the Framework is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The appellants have drawn my attention to the presence of a number of outbuildings in the garden prior to the erection of the current structures. However, I have no substantive evidence to show that the proposed buildings are not materially larger as this requires consideration of not just the footprint of the buildings but also their overall size. Evidence submitted by interested parties' points towards the buildings referred to as being relatively modest structures. Significantly, the buildings have been demolished. As such, there are no longer any buildings to replace.
30. The proposals are, therefore, inappropriate development in the Green Belt and, as such, conflict with Policy NR2 of the Local Plan Strategy 2008 – 2029⁵ (LPS), which states that inappropriate development will not be approved except in very special circumstances, and the Framework.

Effect on openness

31. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework sets out the purposes of Green Belt, including to check the unrestricted sprawl of large built-up areas. Whilst the site is well screened by mature vegetation and the buildings would be single storey, which would help limit views from the public domain, openness has a spatial aspect as well as a visual aspect. The unfinished structures are substantial and once completed, would be even more so. As such, the development of either of the buildings would result in a modest but significant adverse impact on the related Green Belt purpose to check the unrestricted sprawl of large built-up areas, contrary to Policy NR2 of the LPS and the relevant expectations of the Framework.

Character and appearance

32. The appellant suggests that Policy HSG1 is not relevant to the appeal buildings as it applies to residential development. However, since the buildings would be within the residential curtilage, they would constitute residential development. The scale, design and orientation of the buildings, with decorative stone quoins and lintels, appear at odds with the existing dwelling, with its relatively simple design. This is in conflict with Policy BE1 of the LPS and Policy HSG1 of the Little Aston Neighbourhood Plan (NP), 2015-2029 which both seek development which respects the surrounding area.
33. Buildings A and D are set back some distance from the highway within a part of the site which is well screened by mature vegetation. As a result, there are no significant public views of the site and only limited views from the adjacent farm, particularly of Building D, views of which are interrupted by substantial farm buildings. Any visual effect on the wider area from either buildings,

⁴ Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2017] EWCA Civ 141

⁵ Adopted 17 February 2015

complete or in their current state, would therefore be limited due to the restricted views of the site which would limit any harm arising to the character and appearance of the area. As a consequence, I consider there would be limited conflict with Core Policy 3 of the LPS, which seeks to ensure that development protects and enhances the character and distinctiveness of Lichfield District and its settlements.

34. Whilst I have found that there would be only limited conflict with Core Policy 3 of the LPS, the proposal would also conflict with policies BE1 and HSG1, as set out above. This weighs against the proposal.

Other considerations

35. No 42 Blake Street is a residential dwelling which benefits from permitted development rights under the GPDO, including the provision of any building required for a purpose incidental to the enjoyment of the dwellinghouse. The concept of a fallback development as a material consideration is well established in case law and the appellant has drawn my attention to various cases in this regard⁶.
36. I accept that rights afforded by the GPDO can represent a fall-back position which is a material consideration. However, as set out in Simpson⁷, the nature and content of the various uses or operations need to be identified with sufficient particularity to enable the comparison that the fall-back contention involves to be made. I have found that the buildings proposed by the appellants would not be development which is permitted by the GPDO. It is for the appellant to provide information on the nature and content of any alternative operations, not the decision maker. Although it may be possible to construct a building within the site which would be granted by the GPDO, I have no alternative scheme before me and cannot therefore be sure what the effect of such operations would be compared with the appeal scheme or that the appellant would be likely to implement an alternative.
37. I appreciate that the completed buildings would provide additional space for the appellants and their large family, whether they currently reside in the dwelling or not. However, in respect of the ground (a) appeal there would be no benefit since the structures are not completed. In relation to the S78 appeals, Appeals F and G, whilst Building E is described as being used to store machinery for the maintenance of the garden, it has not been demonstrated why the building, which was being used for the storage of building materials at the time of my visit, could not be utilised for some of the proposed activities given its substantial size or why planning permission granted in 2017 could not be implemented. As such, I afford this matter modest weight in respect of the S78 appeals only.
38. The appellants have drawn my attention to the existence of buildings within the grounds of the dwelling which were demolished in 2017 and which, they assert, provided around 152m² floor space. Whilst their demolition may have

⁶ Wells v MHLG [1967] 1 WLR 1000; Spackman v SSE [1977] 1 AER; and South Oxfordshire DC v SSE [1982] 1 WLR 1092; Snowdon v Secretary of State for the Environment (SSE) and Bradford City Metropolitan Council [1980] JPL 749; South Buckinghamshire District Council v SSE and another [1999] PLCR 72, CO/184/98; Brentwood Borough Council v SSE and others [1996] 3 PLR 13, at 17 R (on the application of Zurich Assurance Limited) v North Lincolnshire Council [2012] EWHC 3708 (Admin), Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government (SSCLG) and others [2009] EWCA Civ 333

⁷ Simpson v SSCLG and another [2011] EWHC 293

generated additional storage requirements, a requirement for storage does not appear to form part of the appellants' case. Furthermore, whether the buildings were comparable in size to the appeal buildings or not, they have been demolished. I cannot therefore afford this matter weight.

Ground (a) and S78 Appeals: Conclusion

39. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
40. The proposals would be inappropriate development in the terms set out in the Framework and lead to a moderate loss of openness to the Green Belt. They would also harm the character and appearance of the area. The Framework establishes that substantial weight should be given to any harm to the Green Belt. No considerations have been put before me which would outweigh the totality of the harm. Consequently, very special circumstances do not exist and the proposal would conflict with Policy NR2 of the LPS and the Framework.

S174 Appeal: Ground (f)

41. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken...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. Given that the notice requires the removal of the structures I consider the purpose of the notice is to remedy the breach.
42. The appellant has drawn my attention to various case law regarding the application of ground (f) where ground (a) is also pleaded⁸. I accept that grounds (a) and (f) can be used together to achieve more than could be gained under ground (f) alone. However, as set out above, I have no power to grant planning permission for something different to from that enforced against. In the case of Ahmed⁹, the suggested alternative formed part of the development enforced against. That is not the case here. The buildings proposed by the appellants do not form part of the breach, rather the works that constitute the breach would have, had they been completed, formed part of the proposed buildings.
43. As set out under ground (a) above, there is no 'obvious alternative' which has put to me and which I consider would comply with the limitations of the GDPO. It has therefore not been demonstrated that the building(s) could be made acceptable in planning terms. As set out in case law¹⁰, where the limitations within the GPDO are breached the Council can require removal of the entire building.

⁸ *Miaris v SSCLG and another* [2016] EWCA Civ 752. *Mahfooz Ahmed v SSCLG*, London Borough of Hackney [2013] EWHC 2084 (Admin), and [2014] EWCA Civ 566 and *Tapecrown Ltd v First Secretary of State* [2006] EWCA Civ 1744, [2007] 2 P&CR 7 and *Moore v SSCLG* [2013] JPL 192. *SSCLG v Ioannou* [2014] EWCA Civ 1432. *Ahmed v SSCLG* [2014] 2 EGLR 197

⁹ *Mahfooz Ahmed v SSCLG*, London Borough of Hackney [2013] EWHC 2084 (Admin), and [2014] EWCA Civ 566

¹⁰ *Garland v Minister of Housing and Local Government* (1965) 20 P&CR 93

44. There is nothing in the notice that would prevent the appellants from exercising their PD rights under Class E and so upholding the notice would not deprive landowners of their lawful rights¹¹ and so I am satisfied, on the evidence before me, that the requirements are not excessive and are necessary to remedy the breach. Accordingly, the appeal on ground (f) must fail.

S174 Conclusion

45. Thus, for the reasons give above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decisions

APP/K3415/C/19/3239674 (Appeal A) & 3239675 (Appeal B)

46. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C Ref: APP/K3415/X/19/3239719

47. The appeal is dismissed.

Appeal D Ref: APP/K3415/C/19/3239720

48. The appeal is dismissed.

Appeal E Ref: APP/K3415/C/19/3239721

49. The appeal is dismissed.

Appeal F Ref: APP/K3415/C/19/3239717

50. The appeal is dismissed.

Appeal G Ref: APP/K3415/C/19/3239718

51. The appeal is dismissed.

M Savage

INSPECTOR

¹¹ Mansi v Elstree Rural District Council 91965) 16 P. & C.R. 153 and cited in Graham Oates v SSCLG v Canterbury City Council [2018] EWC Civ 2229.