The Planning Inspectorate

Appeal Decision

Site visit made on 4 August 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/Y3615/C/21/3276011
Land known as Lot A1, Westwood Lane, Wanborough, Guildford GU3 2JN registered at HM Land Registry under title number SY864326 and Land known as Land lying to the west of Westwood Lane, Wanborough, Guildford, Surrey and registered at HM Land Registry under title number SY86190, shown edged red on plan attached to the notice

- 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 Caili Zhu against an enforcement notice issued by Guildford Borough Council.
- The enforcement notice, numbered EN/20/00121, was issued on 21 April 2021.
- The breach of planning control as alleged in the notice is without planning permission, engineering operations consisting of the creation of a track, shown in the approximate position marked with black hatching on the site plan attached to the notice, and the creation of bunds, shown in the approximate position marked A - B and C - D on the site plan attached to the notice.
- The requirements of the notice are to: i) Remove from the Land all material, including but not limited to hardcore and earth, used to create the bunds adjacent to the track in the approximate location marked A - B and C – D on the plan attached to the notice. ii) Remove from the Land all material, including but not limited to hardcore and earth, used to create the track on the Land, hatched in black on the plan attached to the notice. iii) Return the Land to its previous levels, so at any point it is level with the natural pre-existing land immediately adjacent to it.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (b) and (e) of the Town and Country Planning Act 1990 as amended (the Act).

Decision

1. It is directed that the enforcement notice be corrected by replacing SY86190 with SY861901 in paragraph 2. Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Procedural matters/the enforcement notice

2. It is clear from the Land Registry documentation provided by the Council (official copy of register of title) that the notice contains a typographical error, in that the last digit of the title number has been omitted in respect of SY861901. However, I am satisfied that the land subject to the notice has been clearly identified because the description of it in paragraph 2 draws reference to the plan attached to the notice where it is clearly marked. The appellant has not raised the incorrect title number as an issue and has made her appeal submissions on the basis that the land has been correctly identified. Therefore, I am correcting the notice to essentially add the omitted digit without any injustice caused to any party.

3. I have also dealt with another appeal (Ref: APP/Y3615/C/21/3274279) on this site and made against the same notice. That appeal is the subject of a separate decision.

Ground (e)

4. For an appeal to be successful under this ground, the appellant must satisfy me on the balance of probabilities that copies of the notice were not properly served as required by the Act. However, the appellant has not made any substantive case or provided any supporting evidence to this effect. The Council has made detailed submissions that it properly served copies of the notice as required by section 172(2) of the Act, including to the appellant who has exercised her right of appeal. Consequently, the ground (e) appeal does not succeed.

Ground (b)

5. For success under ground (b), the appellant must satisfy me on the balance of probabilities that the matters stated in the notice have not in fact occurred. Yet the appellant's submissions do not make a case to this effect and conversely confirm the existence of the track and bunds[1]. The Council has also submitted photographs showing the alleged development (and of the land before development), and I observed the track and bunds on my site visit. While I understand from the appellant's comments that she says that she is not responsible for these operations on the land, that is not material to success under this ground and therefore the appeal fails.

Conclusion

6. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Andrew Walker

INSPECTOR

[1] Email of 31 May 2021: "I was quoted around £15,000 (around £9000 for removing the bunds, £6000 for removing the track)…"