

Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 20th December 2021

Appeal Ref: APP/B1550/C/21/3272808

**Land adjacent to and rear of 191 to 201 Rectory Avenue, Ashingdon
(shown edged red on the 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 Mr Graham Eiles against an enforcement notice issued by Rochford District Council.
 - The enforcement notice was issued on 26 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the carrying out of engineering operations involving the laying of hardstanding comprising road planings creating a track 3.2 metres wide and approximately 85 metres long and a turning area (shown in the approximate area shown cross hatched on the plan attached to the notice).
 - The requirements of the notice are to: 1. Remove all road planings that form the hard surface from the land identified in the approximate area shown cross hatched on the plan attached to the notice. 2. Having complied with step 1 above, remove from the land the grid pave membrane laid to facilitate the hardstanding. 3. Remove the ranch style fencing and timber boards in the ground marking the edges of the hard standing. These are shown on the annotated photograph attached to the notice. 4. Remove any resultant debris and materials from the land and restore the land to its condition before the breach took place.
 - The period for compliance with the requirements is 12 weeks.
 - 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.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. A site visit was not necessary to determine this appeal. The main parties were consulted on my intention not to visit the site, and raised no objections.
3. I was informed by the main parties on 16 December 2021 that the notice had been fully complied with, but with the appellant confirming that he still wished to proceed with his appeal.

Ground (f)

4. For an appeal to succeed on this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose.
5. It is clear that the purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place. Its requirements do no more than that, and are not excessive.

6. The appellant's case under this ground seems to be that an alternative route to compliance with the notice would be to cover the track with topsoil so that it would no longer be visible. However, this would not restore the land to its condition before the breach took place because the development would still exist under the topsoil. The alternative scheme would therefore not achieve the purpose of the notice to remedy the breach of planning control constituted by the unauthorised engineering operations.
7. Accordingly, the appeal under ground (f) does not succeed.

Ground (g)

8. For an appeal to be successful under this ground, I must be satisfied that the time given by the notice to comply with its requirements falls short of what is reasonable.
9. I am informed by the main parties that all the requirements of the notice have been met. Accordingly, there are no longer any steps to be taken within the 12 weeks compliance time set out in the notice. It cannot in these circumstances fall short of what is reasonable.
10. Therefore, the appeal under ground (g) fails.

Conclusion

11. For the reasons given above I consider that the appeal should not succeed.

Andrew Walker

INSPECTOR